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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT– FIFTH SESSION

THE PUBLIC ACCOUNTS COMMITTEE

THE REPORT ON THE EXAMINATION OF THE AUDITOR-GENERAL'S REPORT ON THE FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT FOR THE FINANCIAL YEAR 2017/2018

VOLUME I

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 23 MAR 2021
DAY: Tues
TABLED BY: Chair, PAC Hon. Opiyo Wandayi
CLERK-AT THE-TABLE: Moses Lemuna

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

MARCH, 2021

List of Abbreviations

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

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

SRC	-	Salaries and Remuneration Commission
TMEA	-	Trade Mark East Africa
UNDP	-	United Nations Development Programme
UNHCR	-	United Nations High Commissioner for Refugees
UNICEF	-	United Nations Children's Fund
USAID	-	United States Agency for International Development
VGA	-	Volunteer Graduate Assistants
VAT	-	Value Added Tax
YEDF	-	Youth Enterprise Development Fund

CHAIRPERSON'S FOREWORD

Honourable Speaker, on behalf of the Public Accounts Committee (PAC), and pursuant to Standing Order 199, it is my pleasant duty and honour to present to the House the report of the Committee on the audited financial statements of Ministries, State Departments, Commissions and Independent Offices for Financial Year 2017/2018.

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

Honourable Speaker, the Committee has continued to discharge its constitutional mandate with utmost diligence and objectivity whilst remaining cognizant of the onerous responsibility it owes the people of Kenya.

In discharging this role, the Committee held a total of one hundred and ten (110) sittings, under the unique circumstances occasioned by the COVID-19 pandemic, during which it received both written and oral evidence from Accounting Officers on audit queries raised by the Auditor-General. Minutes of the Committee's meetings are annexed to this report.

Honourable Speaker, I wish to commend, once again and most sincerely, all the Accounting Officers whose financial statements received unqualified opinion from the Auditor-General. I encourage all other Accounting Officers to emulate these examples.

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

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

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

HON. JAMES OPIYO WANDAYI, CBS, MP

1.0 INTRODUCTION

1.1 Establishment of the Public Accounts Committee

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

1.2 Mandate of the Committee

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

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

1.3 Guiding Principles

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

a) Constitutional Principles on Public Finance

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

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

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

b) Direct Personal Liability

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

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

c) Obligations of Accounting Officers

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

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

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

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

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

1.4 Committee Membership

14) The Committee is comprised of the following Members

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

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

Members

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

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

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

Hon. Christopher Nakuleu Doye
TurkanaNorth Constituency
Jubilee Party

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

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

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

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

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

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

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

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

Hon. James Gichuhi Mwangi, MP
Tetu Constituency
Jubilee Party

Hon. Samuel Kinuthia Gachobe, MP
Subukia Constituency
Jubilee Party

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

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

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

1.5 Committee Secretariat

Oscar Namulanda	- Principal Clerk Assistant II (Lead Clerk)
CPA Joash Kosiba	- Senior Fiscal Analyst
Peter Mwaura	- Senior Legal Counsel
Salat Abdi Ali	- Senior Serjeant At Arms
Nebert Ikai	- Clerk Assistant II
Nimrod Ochieng	- Audio Officer

2.0 GENERAL OBSERVATIONS AND RECOMMENDATIONS

2.1 Introduction

15) The Committee made the following general observations, findings, and recommendations from the proceedings; evidence tendered and selected project visits relating to the report of the Auditor-General on the financial statements for Ministries, State Departments, Commissions and Independent Offices for the financial year ended 30th June 2018.

2.2 General Observations and Recommendations

16) Accounting Officers for the various MDAs, Judiciary, Parliament, Constitutional Commissions and Independent Offices are required to monitor, evaluate and oversee the management of public finances in their respective entities. Section 66 of the Public Finance Management Act 2012 mandates the Accounting Officers to ensure proper management and control of and accounting for their finances to promote the efficient and effective use of budgetary resources. The Committee made the following general observations on the implementation of the approved budget for the Financial Year 2017/2018.

16.1 Low Utilization of the Approved Budget

17) The total gross estimated government expenditure has increased from Ksh.1.557 trillion in the year 2013/2014 to Ksh.2.69 trillion in the year 2017/2018, representing an increase of Ksh.1. 133 trillion or approximately 73 percent over the five years. Similarly, the actual gross expenditure has increased from Ksh.1. 461 trillion in the FY 2013/2014 to Ksh.2.419 trillion in the FY 2017/2018, representing an increase of Ksh.957.3 billion or approximately 65 percent over the five years as shown in Table 2.1:

Table 2.1: Summary of Five Years Budget Utilization Trends in Kenya Shillings

FY	Gross Estimated Expenditure	Actual Gross Expenditure	Under-Utilization	Non-Utilized Percentage
2013/14	1,557,192,721,388	1,461,965,849,061	95,226,872,327	6%
2014/15	2,099,370,186,391	1,906,841,500,924	192,528,685,467	9%
2015/16	2,253,494,806,467	1,999,174,760,912	254,320,045,555	11%
2016/17	2,541,568,251,270	2,390,531,985,901	151,036,265,369	6%
2017/18	2,690,233,829,942	2,419,275,195,751	270,958,634,191	10%

Data Source: *The Kenya National Audit Office*[1]

18) The Committee observed that, on average, there was under-utilization of the approved budget by approximately 8.5 percent over the five years. In the FY 2017/18, only 90 percent of the approved gross estimated expenditure spent, leaving Ksh.270.95billion under- utilized. The low utilization of the approved budget is attributable to the late approval of supplementary budget estimates by the National Assembly. The House approved additional funds in supplementary estimates No. 2 in late June 2018 for the MDAs and not utilized by the closure of the financial year on 30th June 2018.

[1] *Summary of the Report of the Auditor-General for the National Government for the FY 2017/2018*

19) The Committee recommended that:

1) **The Cabinet Secretary, National Treasury, should ensure that no supplementary budget estimates are submitted to Parliament later than two months before the close of the financial year; and**
2) **The Committee is proposing to amend Section 44 of the PFM Act 2012 to provide that all supplementary budget estimates are submitted to Parliament not later than two months (60 days) before the close of the financial year.**

2.3 Sharing of Revenue and Approved Budget

20) In the FY 2017/2018, the Approved Estimated Gross Expenditure was Ksh.2,690,233,829,942 while approved Appropriations-In-Aid (AIA) was Ksh.380,250,334,279, resulting in Net Approved Expenditure of Ksh.2,309,983,495,663 as shown in table 2.2.

Table 2.2: Summary of the Gross Expenditure Estimates and Ksh. Share for Counties for the FY 2017/18 in Kenya Shillings

Description	Gross Expenditure Estimates	Appropriation in Aid	Approved Net Expenditure Estimates	% Gross Expenditure Estimates
Recurrent Votes	1,072,664,260,583	127,016,472,723	945,647,787,860	40%
Development Votes	571,731,702,312	253,233,861,556	318,497,840,756	21%
Consolidated Fund Services	726,857,248,407	-	726,857,248,407	27%
Sub-total for National Government	**2,371,253,211,302**	**380,2a50,334,279**	**1,991,002,877,023**	**88%**
County Governments	318,980,618,640	-	318,980,618,640	12%
Grand Total	**2,690,233,829,942**	**380,250,334,279**	**2,309,983,495,663**	**100%**

Data Source: *The Kenya National Audit Office*[2]

21) Table 1.1 shows that 40 percent of the gross estimated expenditure was budgeted for meeting the national government recurrent expenditures and 21 percent for development expenditures. Consolidated Fund Services (CFS) including repayments of public debt accounted for another 27 percent while county governments accounted for 12 percent of the gross estimated expenditure. The audited revenue for the year 2013/2014[3] was the basis of counties allocation of Ksh.318,980,618,640 for the year 2017/2018. The total national government gross approved expenditure estimates of Ksh.2.37 trillion comprised of Ksh.1.072 trillion for recurrent expenditure estimates, development expenditure estimates of Ksh.571.7billion and Ksh.726.85billion for Consolidated Fund Services.

22) The Committee that the National Treasury failed to ensure that the total gross expenditure estimates adhere to the fiscal responsibility principles as required under Article 201 of the Constitution. The National Treasury has failed to enforce the requirement of a minimum of thirty percent of the national governments budget allocation to the development

[2] *Summary of the Report of the Auditor-General for the National Government for the FY 2017/2018*
[3] *These were the most recent audited accounts of revenue approved by the National Assembly as indicated in the Division of Revenue Act, 2017.*

expenditure as per the provisions of Section 15 (2) (a) of the PFM Act 2012 and Regulation 26b (1) (f) of the PFM (National Government) Regulations 2015.

23) The Committee recommended that:

1) **The National Assembly should only approve the gross national government expenditure estimates for the FY 2021/2022 and the medium-term if the allocation for development expenditure estimates meet the minimum 30 percent minimum threshold as prescribed in law;**
2) **The Cabinet Secretary for the National Treasury and Planning must at all times ensure**
that MDAs adhere to the fiscal responsibility principles as espoused in the Constitution and the PFM Act 2012; and
3) **The delays in approvals of the audited statements of revenue collected nationally disadvantage counties in sharing the national cake. The watchdog Committees of Parliament namely PAC, PIC, SFAC, and CPAIC of the Senate are the eyes and ears of the public in the utilization of public finances. There already exists Parliamentary Budget Office (PBO) a technical directorate within Parliament charged with the mandate of providing professional services in respect of budget, finance, and economic information to the committees of Parliament under Section 10 of the PFM Act, 2012. To enhance the technical capacity of these Committees, the Committee recommended that the Parliamentary Service Commission establishes a dedicated technical unit within the Parliamentary Budget Office (PBO) to provide the technical support to the Committees to clear up any audit report approval backlog and work within the timelines in the Constitution without losing focus on the "bigger picture".**

2.4 Statement on Audited Accounts of Revenue for the period ending 30th June 2018

24) In the financial year 2017/2018, total revenue recorded under various revenue statements as received by the national government amounted to Ksh.1,413,694,842,235, representing an increase of Ksh.55,996,663,910 or about 4% when compared to actual collections of Ksh.1,357,698,178,325 realized in 2016/2017 as shown in table 2.3.

Table 2.3: Comparative Summary of Actual Revenue Receipts in Kenya Shillings

Details	**Actual Receipts 2017/2018**	**Actual Receipts 2016/2017**	**Change in Revenue**	**% Change**
Recurrent	1,369,095,080,001	1,319,297,139,846	49,797,940,155	3.6%
Development	44,599,762,234	38,401,038,479	6,198,723,755	13.9%
Total	**1,413,694,842,235**	**1,357,698,178,325**	**55,996,663,910**	**4.0%**

Data Source: *The Kenya National Audit Office*[4]

25) The total revenue of Ksh.1,413,694,842,235 comprised of Ksh.1,369,095,080,001 and Ksh.44,599,762,234 relating to recurrent (ordinary revenue) and development revenue, respectively, as shown in Table 1.2. Analysis of estimated receipts indicates that actual

[4] *Summary of the Report of the Auditor-General for the National Government for the FY 2017/2018*

recurrent revenue collected during the year reflected a shortfall of Ksh.124,576,474,881 or 8.3 percent while there was a shortfall of development revenue collected of Ksh.1,948,484,443 or 4.2 percent.

26) The Committee recommended that:

The total nationally collected revenue amount of Ksh.1,413,694,842,235 forms the basis of sharing of revenue between the national and county governments as contemplated in Article 203 (3) of the Constitution.

2.5 The shortfall in Collections of Revenues and Arrears

(a) Unreconciled Revenue Statements

27) The actual recurrent revenue (tax and non-tax income receipts) of Ksh.1,369,095,080,001 reported in the audited revenue statements during the year differs by Ksh.807,997,592 with the ordinary revenue receipts of Ksh.1,369,903,077,593 reflected in the National Exchequer Account. The difference of Ksh.807,997,592 is not reconciled or explained to the auditors. The National Treasury attributed the different figures to system challenges while capturing revenue receipts through IFMIS Accounts. The Committee observed that the financial statements were later reconciled in the succeeding financial year. The delays in the reconciliation of revenue statements undermine the principle of collection, accounting and reporting revenue collected nationally by understating the reported revenue receipts.

28) The Committee recommended that:

1) **The Cabinet Secretary, National Treasury and Planning should ensure that the IFMIS provides efficient financial management for both the national and county governments to ensure transparent financial management and standard financial reporting as contemplated in Article 226 of the Constitution. Further, Accounting Officers must desist from undertaking their financial operations including adjustments of the IFMIS system to ensure complete reporting; and**
2) **The Cabinet Secretary for the National Treasury and Planning should within three (3) months of tabling and adoption of this report, issue a reprimand letter to all designated receivers and collectors of revenue whose revenue statements were not duly reconciled in time.**

(b) The shortfall in Revenue Collections

29) The total revenue of Ksh.1,413,694,842,235 comprised of Ksh.1,369,095,080,001 and Ksh.44,599,762,234 relating to recurrent (ordinary revenue) and development revenue ,respectively. However, analyses of estimated receipts indicate that actual recurrent revenue collected during the year reflected a shortfall of Ksh.124,576,474,881 or 8.3 percent while there was a shortfall of development revenue collected of Ksh.1,948,484,443 or 4.2 percent as shown in table 2.4.

Table 2.4: Summary of Estimated and Actual Revenue Receipts for the FY 2017/2018 in Kenya Shillings				
Details	**Estimated Receipts**	**Actual Receipts**	**Revenue Shortfall**	**Percent Shortfall**
1. Recurrent	1,493,671,554,882	1,369,095,080,001	124,576,474,881	8.3
2. Development	46,548,246,677	44,599,762,234	1,948,484,443	4.2
Total	**1,540,219,801,559**	**1,413,694,842,235**	**126,524,959,324**	**8.2**

Data Source: The Kenya National Audit Office

30) The explanations provided for the 4.2 percent under-collection of development revenue include non-release of funds by development partners and low absorption of funds by projects and programmes. The recurrent revenue shortfall of Ksh.124.56billion or 8.3 percent is attributable to other factors including ambitious revenue forecasting by the National Treasury and unpredictable tax system that creates uncertainty among businesses and general taxpayers.

31) The National Treasury made five key tax law & administrative changes between April 2020-December 2020) through enactment of various tax laws and approval of various Regulations with far-reaching implications leading to considerable changes to the tax base and tax rates for taxpayers. These changes include:
    (a) The Tax Laws (Amendment) Act, 2020 that introduced tax reliefs to businesses and individuals in the wake of COVID-19 pandemic;
    (b) The Finance Act, 2020 signed into law on 30th June 2020 introducing Minimum Tax and Digital Services Tax (DST), which became effective on 1 January this year;
    (c) Tax Laws (Amendment) (No.2) Act, 2020 was enacted 24th December 2020 and became effective on 1 January 2021 reversing the COVID-19 tax relief.
    (d) Value Added Tax (Digital Marketplace Supply) Regulations 2020; and
    (e) Income Tax (Digital Services Tax) Regulations, 2020.

32) Tax certainty is a fundamental principle of an efficient national tax system. Businesses makes investment and operational decisions on the predictability of the long-term impact of the taxes on business decisions. The trend where the National Treasury makes frequent and unpredictable revision of tax rates and administration causes multiple shifts in the tax base and tax rates for businesses in Kenya within a considerably short period. This unpredictability of tax system makes revenue forecasting unrealistic & unstable.

33) The Committee recommended that:
    1) **The Cabinet Secretary for the National Treasury and Planning should ensure that there is a realistic revenue target and comprehensive forecasting when preparing revenue projections and avoid disruption of the tax base through frequent changes in tax laws;**
    2) **The Cabinet Secretary for the National Treasury and Planning should within three (3) months of tabling and adoption, form a national task force to review the national tax systems with a view to developing a national tax policy based on principles of equity and fairness, low compliance, and administration cost,**

flexibility, economic growth, and efficiency. The taskforce should submit its report to Parliament within three (3) months; and

3) **The Cabinet Secretary for the National Treasury and Planning ensures that the Kenya Revenue Authority (KRA) puts in place effective and efficient revenue collection administration and systems that boost revenue collection, recognize, and support taxpayers as partners in national development.**

(f) Arrears of Revenue

34) The statement of arrears of revenue as of 30th June 2018 reflects outstanding arrears of revenue of Ksh.305,909,926,390 while the KRA Revenue Accountability Statement reflects arrears of revenue of Ksh.288,123,529,688 resulting in a difference of Ksh.17,786,396,702. The National Treasury's reported figure of KSh.305,909,926,390 comprises a total figure of KSh.288,123,529,688 being Domestic Tax Department, a legacy figure of KSh.173,351,000,000, i-Tax figure of KSh.114,772,529,688 and KSh.17,786,396,702 being Custom Service Department. However, the Auditor-General later reviewed and verified the documents and the KRA revenue accountability statement agreed with the financial statements of the National Treasury.

35) The Committee observed that the arrears of revenues have continued to grow from Ksh.194 billion in FY 2016/17 to Ksh.305.9 billion in the FY 2017/18. The significant arrears of revenue due and uncollected undermine the principle of equitable sharing of national revenue between the national and counties as enshrined in Articles 202 and 203 of the Constitution. Further, the persistent increase in arrears of revenue denies the national and county governments the scarce financial resources that they need to undertake their development projects.

36) The Committee recommended that:

1) The Cabinet Secretary for the National Treasury and Planning, the KRA and other receivers and collectors of revenues relook their strategy for collecting the growing arrears of revenue. The KRA should spruce up its image as enabler of businesses and embrace alternative disputes resolution (ADR) mechanisms to solve revenue related disputes without necessarily dragging revenue matters to courts.

2.6 Management of Public Debt

37) The outstanding amount of public debt has increased over the years from Ksh.2,250,845,910,286 reported in the year 2013/2014 to Ksh4,801,416,851,482 reported in the FY 2017/2018. This is an increase of Ksh.2,550,570,941,196. The country has been accumulating public debt at the rate of 20 percent per year over the five years as shown in table 2.5.

Table 2.5: Public Debt Accumulation Trends in Kenya Shillings

Financial Year	Debt Stock	Percentage Debt Increase
2013/2014	2,250,845,910,286	27%
2014/2015	2,674,806,364,195	19%
2015/2016	3,385,910,449,825	27%

2016/2017	4,194,102,152, 577	24%
2017/2018	4,801,416,851,482	14%

38) The Committee observed that there is poor maintenance of the public debt records. The Auditor-General noted variances between figures reflected in the loan registers, other supporting schedules and the financial statements. Further, according to the Medium-Term Debt Strategy paper 2021, the nominal stock of public debt was KSh.7,281.6 billion or US$ 65.6 billion as of the end of December 2020, equivalent to 65.6 percent of GDP.

39) The Committee recommended that:

1) **Section 64 (2) of the PFM Act 2012 should be amended to obligate the National Treasury to prepare and publish every quarter an up-to-date national debt register;**
2) **Section 50 of the PFM Act 2012 should be amended to provide that any borrowing by the national government for a project to the tune of Ksh. 1 billion and above should be approved by the National Assembly before the loan contracts are signed by the government; and**
3) **The Cabinet Secretary for the National Treasury and Planning should, within three (3) months of tabling and adoption of this report, form a national task force on public debt and engage an independent audit consultant to audit the national debt register and report to Parliament within three (3) months;**

2.7 Pending Bills

40) The reported pending bills amount for the year ended 30 June 2018 increased drastically to Ksh.46,529,173,323 from the previous years' amount of Ksh.16,712,379,101, denoting an increase of 178 percent within one year. These delayed payments for goods and services procured by national government MDAs have led to the deterioration of financial positions of businesses and in particular the SMEs, including businesses owned by women, youth, and persons with disabilities. Further, failure to settle the bills promptly adversely affects the subsequent year's budgeted programmes as it may lead to a reallocation of funds or non-delivery of critical services.

41) The Committee recommended that:

1) **The Cabinet Secretary for the National Treasury and Planning should, within three (3) months of tabling and adoption of this report, ensure that MDAs prioritize payments of all eligible pending bills as the first charge and report to Parliament on a quarterly basis;**
2) **Parliament should prioritize the enactment of the Prompt Payment Bill, 2020, a Bill which provides for prompt payment for the supply of goods, works or services to the government; and**
3) **The Cabinet Secretary for the National Treasury and Planning should, within three (3) months of tabling and adoption of this report, prepare and submit to Parliament a status report on all pending bills including action taken on all the**

Accounting Officers who incurred pending bills for reasons other than delays in release of exchequer.

2.8 Stalled/Incomplete Projects

42) The audit for the FY 2017/18 revealed instances where the government had incurred huge expenditure on projects, which either had stalled or had remained incomplete long beyond the contract period. There were instances where payments were made for work not done, casting doubt on value for money for such expenditure. The government spent Ksh. 9.75 billion on various projects with no work done, stalled or incomplete including:

i) State Department for Planning and Statistics spent Ksh.4.29 billion on Arror dam project where there is no work done;
ii) State Department of Public Works spent Ksh.2.45 billion on the stalled construction of Lamu Police Station and Management Housing which was contracted for Ksh.615,848,997, stalled construction of Mathare Nyayo Hospital at a contract sum of Ksh.1,212,414,732, and stalled construction of Kenya Institute of Business Training at a contract sum of Ksh.629,909,101;
iii) The Judiciary spent Ksh.1.587 billion on uncertified completion of works for various courts; and
iv) The State Department for Labour spent Ksh.442.7 million on stalled construction of the proposed National Employment Promotion Centre, Kabete, awarded to a local firm at Ksh.442,723,947. The contractor has abandoned the site despite receiving payment of Ksh.117,998,228

43) The expenditure incurred for the stalled projects translates to ineffective use of public resources, as the projects are not achieving their intended purposes and value to the taxpayers.

44) The Committee recommended that:
1) **The Cabinet Secretary for the National Treasury and Planning should ensure that MDAs with stalled/incomplete projects do not initiate any new project until the completion of the on-going projects. Further, the respective Departmental Committees of the National Assembly should ensure that stalled/incomplete projects with no legal objections are given priority during budget appropriation; and,**
2) **The Cabinet Secretary for the National Treasury and Planning should, within three (3) months of tabling and adoption of this report, undertake a national audit of all stalled/incomplete national government projects with a view to hastening their completion. The report of the stalled/incomplete national government projects be submitted to the National Assembly for prioritization in appropriation of funds, where applicable.**

3.0 Summary of other Pertinent Observations and Recommendations

3.1 Delays and Non- implementation of the PAC Recommendations

45) PAC and indeed other watchdog Committees namely PIC, SFAC, and CPAIC of the Senate, make recommendations which when adopted by the House become binding resolutions. There exist Committees on Implementation in both the National Assembly and the Senate charged with the responsibility of following up on House resolutions and recommendations. However, the Committee noted that the institutional arrangement seems not to be working for effective follow-up of resolutions and recommendations of the watchdog Committees. The global best practice for an effective PAC is an appropriate technical support structure.

The designated PAC Clerk requires sufficient time to provide the necessary administrative and clerical support to the Committee. To strengthen the secretariat to the Committee, there is a need for a technical unit charged with preparation of objective technical briefs (including suggested questions) to help Members prepare adequately for the hearings; and ensuring PAC has assistance to draft and follow up on reports and recommendations. The PAC presently depends more on the Auditor-General to track the implementation of their recommendations (often, the Auditor-General cannot do so).

46) The Committee recommended that:

1) **The leadership of Parliament should consider establishing a specialized unit at the PBO within Parliament to provide technical support to the watchdog Committees and undertake follow-up on audit report recommendations and resolutions to strengthen the capacity of the Committees to keep abreast with the implementation of the audit recommendations and resolutions for effective oversight;**
2) **The respective Departmental Committees of the National Assembly should develop an accountability system that links request for new budgets by the MDAs to the latest audit reports so as to inform the National Assembly in budget approval and appropriation by the House; and**
3) **The Cabinet Secretary for the National Treasury and Planning should, within three months of the tabling and adoption of this report, review the existing reward systems to recognize Accounting Officers who demonstrate prudent public finance management and innovation to motivate and promote stewardship in the management of public resources.**

3.2 Support to the Auditor-General

47) The watchdog Committees of Parliament rely on the Auditor-General to oversight the use of public funds as provided in Article 229 of the Constitution. The Constitution requires the Auditor-General to submit the audit reports of the public entities to Parliament and the relevant County Assemblies by 31st December, every year. To undertake the mandate within the strict timelines, the Office requires adequate resources and financing as provide in Article 249 (3) of the Constitution.

48) Watchdog Committees of Parliament and the Departmental Committee of the National Assembly are increasingly requesting special and performance audits on particular matters including strategic projects and programmes from the Auditor-General to enhance their oversight over specific matters. Due to inadequate financing of the Office of the Auditor-General, the specialized audit reports delay and, in some instances, take more than a year before finalization and submission to Parliament.

49) The Committee recommended that:

1) **The Cabinet Secretary for the National Treasury and Planning should ensure that budget requests by the Office of the Auditor-General are discussed with the watchdog Committees of the National Assembly (PAC, PIC, and SFAC) and their views are taken into consideration before allocation of budget for the Auditor-General and subsequent submission to Parliament; and**
2) **Due to the increasing demand for special and performance audits by Parliament and County Assemblies, the National Assembly co nsiders and approves increased allocation to the Office of the Auditor-General in the FY 2021/2022, particularly to the Specialized Audits Unit at the Auditor-General's Office and for facilitation in the field offices, including the procurement of appropriate vehicles and other logistics.**

3.3 The Equalization Fund

50) Article 204(1) of the Constitution requires that one-half percent (0.5 percent) of all the revenue collected by the national government each year calculated based on the most recent audited accounts of revenue received as approved by the National Assembly is to be paid into the Equalization Fund. The total accumulated entitlement to the Fund for the FYs 2011/2012 to 2016/2017 are estimated at Ksh.21.97 billion as of 30th June 2018. Further, out of available funds amount of Ksh.12,400,000,000, only Ksh.7,880,161,237 or 63.5percent so far transferred for project implementation through the MDAs in the Counties. The disbursed amount represents a meagre overall performance of 36percent against the estimated amount since the inception of the Fund.

51) The Committee observed that the National Treasury as the administrator of the Fund might not achieve the intended purpose as contemplated in the Constitution since there were delays in the implementation. Further, the National Treasury has not put in place evident measures to hasten the implementation of the Fund and recover the ten (10) years lost, so far.

52) The Committee recommended that:

1) **The Cabinet Secretary for the National Treasury and Planning should, within three (3) of tabling and adoption of this report, ensure that the right mechanism for implementation of the Fund is in place and the outstanding entitlement balance of Ksh.19.1 billion is budgeted for and deposited into the Fund Accounts in the financial year 2021/2022;**
2) **The Cabinet Secretary for the National Treasury and Planning should, within three (3) months of adoption and tabling of this report, ensure that the balance**

of the Fund is transfers for project implementation through the MDAs in the Counties and a report on status of implementation is submitted to Parliament on a quarterly basis; and

3) **The Cabinet Secretary for the National Treasury and Planning should, within three (3) of tabling and adoption of this report, fully roll out the implementation of the Equalization Fund and make quarterly progress report to Parliament.**

4.0 Other General Recommendations

53) The Committee recommended that:

1) **The Cabinet Secretary for the National Treasury & Planning should, within three (3) months of tabling and adoption of this report, issue a written reprimand to all the Accounting Officers who failed to ensure that outstanding imprests due were surrendered in time. This was in contravention of the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015;**
2) **Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury & Planning issue a written reprimand to all the Accounting Officers who failed to meet the timelines for preparation and submission of financial statements to the Auditor-General. This violated Article 229 (4) of the Constitution and Section 68 (2) (k) of the PFM Act, 2012;**
3) **Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury & Planning issue a written reprimand to all the Accounting Officers of the sixteen (16) MDAs who submitted unsupported expenditures totaling Ksh.16,603,001,514 (Ksh.16.6 billion). The failure by the MDAs to fully support payments casts doubt on the authenticity of the expenditure reported as incurred.;**
4) **Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury & Planning should issue a written reprimand to all the Accounting Officers who failed to undertake timely bank reconciliation as stipulated in Regulation 90 of the PFM (National Government) Regulations 2015;**
5) **Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury & Planning issue a written reprimand to all the Accounting Officers who failed to undertake timely reconciliation of clearance and suspense accounts as stipulated in Regulation 107 of the PFM (National Government) Regulations 2015;**
6) **The Cabinet Secretary for the National Treasury & Planning should, within three (3) months of tabling and adoption of this report, issue a written reprimand to all the Accounting Officers whose entities either failed to produce or restricted officers of the Auditor-General from accessing books, records, returns, reports, electronic or otherwise and other supporting documents at the time of audit. This contravened the provisions of Section 9 (1) (e) of the Public Audit Act, 2015;**

7) **The Cabinet Secretary for the National Treasury & Planning should, within three (3) months of tabling and adoption of this report, issue a written reprimand to all the Accounting Officers whose entities did not ensure that complete financial and accounting records including support documents are presented to the Auditor-General in time. This is in contravention of the provisions of Article 229 of the Constitution and Section 68(2) of the PFM Act 2012;**
8) **The issuance of disclaimer of opinion by the Auditor-General is a pointer to a serious material breach of the measures established under the public finance laws to protect public funds as contemplated in Section 94(1) (d) of the PFM Act, 2012. Within three (3) months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury should take administrative action in line with Section 67 of the PFM Act, 2012 (including revoking the designation as Accounting Officer) on all Accounting Officers whose entities received disclaimer of opinion;**
9) **All public entities should keep comprehensive asset registers to protect public assets. The Cabinet Secretary for National Treasury and Planning should, within three (3) months of tabling and adoption of this report, issue written reprimand to all the Accounting Officers who failed to prepare and submit an up-to-date register of assets to the National Treasury as stipulated under Regulation 142 of the PFM (National Government) Regulations 2015;**
10) **The Cabinet Secretary, National Treasury should, within three (3) months of tabling and adoption of this report, compile a national register of assets for all assets owned by the national government and submit a comprehensive report to Parliament;**
11) **The EACC should, within three (3) months of tabling and adoption of this report, initiate a forensic investigation into the procurement process for services of cash management solution by the National Treasury with a view to determine if there is any culpability and take appropriate action;**
12) **The EACC should, within three (3) months of tabling and adoption of this report, investigate the organization, administration and personnel practices of the National Treasury with a view to determine how many persons beyond the stipulated retirement age are still in service in line with its mandate under Article 234 (2) (d) of the Constitution;**
13) **The Cabinet Secretary for the National Treasury and Planning and Departmental Committees of the National Assembly should ensure that the budgets prepared by the various MDAs including the National Treasury are realistic and adheres to credible budgeting to ensure that the revenue raised is adequate to cover the expenditures so as to reduce the budget deficit;**
14) **The Auditor-General should adhere strictly to the audit timelines as stipulated in Article 229 (4) of the Constitution and the Section 68 (2) (k) of the PFM Act, 2012 and ensure no Accounting Officer delays submission of financial statements and the relevant supporting documents. Further, publish the names of any Accounting Officer whose entity delays submission of the financial**

statements and all the necessary supporting documents to the Auditor-General within the statutory timelines; and

15) **The National Assembly should ensure adequate budgetary allocation to institutions charged with the mandate of fighting corruption and other economic crimes such as the EACC, the DCI, ODPP and the Asset Recovery Agency (ARA) in order to enhance their capacity.**

3.0 THE NATIONAL TREASURY

FINANCIAL STATEMENTS FOR VOTE 1071

Dr. Julius Muia, the Accounting Officer for the National Treasury (Vote 1071) appeared before the Committee on 14th and 15th September 2020, 10th November 2020 and 1st December 2020 to adduce evidence on the Audited Financial Statements for the National Treasury (Vote 1071) for the Financial Year 2017/2018. The minutes of the Committee sittings and submissions by the Accounting Officer are annexed to this report). The following officials accompanied him:

(1) Mr. Bernard Ndung'u - Director General Accounting Service & QA
(2) Mr. Kennedy Ondieki - Director, Government Invest. & Public Enterprises
(3) Mr. Nemwel Motanya - Deputy Accountant General
(4) Mr. Josephat Omondi - Deputy Commissioner Finance KRA
(5) Mr. Kobia Wakamau - Secretary Administration - SDVTT
(6) Mr. Jonah Wala - Ag. Director Accounting Services
(7) Mr. Victor Mino - Chief Manager KRA
(8) Mr. Kimathi Mugambi - Chief Finance Officer
(9) Mr. Francis Amuyunzu - Assist. Accountant General
(10) Ms. Lilian W. Dishon - Principal Accountant
(11) Mr. Hubert H. Anyanga - Accountant I
(12) Mr. Michael A. Kagika, EBS - Secretary Pensions
(13) Ms. Sharon Kirai - Parliamentary Liaison Officer - KRA

Basis for Qualified Opinion

1. Accuracy of the Financial Statements

54) Comparisons between the General Ledger (GL) and the supporting schedules generated from the Integrated Financial Management System (IFMIS) revealed variances. Since the two reports read from the same database in IFMIS, there should be no variances. Management has not provided reconciliation for the variances nor rendered satisfactory explanations for the variances tabulated below:

Item	General Ledger Balance (Ksh.)	IFMIS Supporting Schedule (Ksh.)	Variance (Ksh.)
Tax Receipts	-	2,586,267,792.55	(2,586,267,792.55)
Proceeds from Domestic Borrowings	-	(420,973,660,000.00)	**420,973,660,000.00**
Other Receipts	-	15,493,183.10	(15,493,183.10)
Bank Balances	1,390,758,926.00	(2,231,391,917.60)	3,622,150,843.60
Cash Balances	741,626.00	55,589,892,673.50	**(55,589,151,047.50)**
Accounts	789,854,587.00	205,773,091.05	584,081,495.95

Receivable			
Accounts Payable	154,936,594.00	761,893,477,120.40	**(761,738,540,526.40)**
Fund Balance b/forward	2,304,964,475.00	(290,124,610,682.30)	**292,429,575,157.30**
Years surplus/deficit	167,852,631.00	301,362,064,940.35	**(301,194,212,309.35)**

55) Further, an inconsistency was noted under recurrent vote Headquarters Administrative Services, Sub-head Strategic Interventions, Basic Wages, and Temporary Employees that reflected a negative actual expenditure of Ksh.3,000,000 under actual expenditure. From the foregoing, the accuracy of the financial statements prepared thereof could not be ascertained.

Submission by the Accounting Officer

56) The Accounting Officer submitted that at the time of audit, comparison between General Ledger (GL) in the IFMIS system and supporting schedules generated from IFMIS revealed variances. The variances were due to challenges of the system. However, the IFMIS system was configured using the correct codes and the reconciliation has been done with the following reports having reconciled -
    (i) Tax receipts;
    (ii) Proceeds from domestic borrowings;
    (iii) Other receipts;
    (iv) Bank balances;
    (v) Cash balances;
    (vi) Account receivable; and
    (vii) Year's surplus and deficit.

57) The remaining items on accounts payables and fund balance brought forward are being reconciled. Under the Recurrent Appropriation Account sub-head 0001-11-2110201 (Strategic Intervention, Basic Wages –Temporary Employees) item reflected an over expenditure of KSh.3, 000,000/-. The over expenditure was due to removal of the initial budget provision figure of KSh.11,175,150,000/- at supplementary estimate No 1. The above economic item had already incurred an expenditure totaling KSh.3,000,000 before finalization of supplementary estimates No. 1 thus creating the over expenditure of the same amount. The amount of KSh.11,175,150,000/- removed from the budget was to cater for salary adjustments of all civil servants that was distributed to all MDA's. A Journal Entry have been posted to the relevant Personnel Emolument Economic Item to correct the anomaly.

Committee Observations and Findings

58) The Committee observed and found that:
    1) the explanation given by the Accounting Officer and the documentation (including the journal vouchers) provided was satisfactory. However, the Ministry is yet to reconcile

the Accounts Payable and the Fund Balance brought forward components of the Financial Statements; and

2) the Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that the National Treasury prepares accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts.

Committee Recommendation

59) The Committee recommended that-

The Accounting Officer should, within three months of tabling and adoption of this report, ensure that the accounts payable and the Fund Balance brought forward components of the financial statements is duly reconciled and submitted to the Auditor-General for audit review and reporting in the subsequent audit cycle.

2. Pending Bills

60) The financial statements discloses pending accounts payable of Ksh.563,474,303. Had the accounts been settled and charged to the statement of receipts and payments for the year, it would reflect a deficit of Ksh.395,621,672 instead of the current reported surplus of Ksh.167,852,631. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

Submission by the Accounting Officer

61) The Accounting Officer submitted that the Financial Statements disclosed pending accounts payable of Ksh.563,474,303. The figure refers to the payments relating to leasing of vehicles that were processed but due to lack of exchequer were not paid and invoices from suppliers that were received late. The closing bills were carried forward to the following financial year. However, all the closing bills formed first charge to the financial year 2018/2019 budget. They were all settled and the auditor confirmed the same.

Committee Observations and Findings

62) The Committee observed and found that:

1) the Accounting Officer had settled pending bills amounting to KSh.70,292,592.15. This leaves an uncleared amount of KSh.10,158,364.85 which the Ministry had not settled since they included amounts related to invoices from various suppliers that did not have any supporting documents; and
2) the explanation given by the Accounting Officer on the pending bills was satisfactory.

Committee Recommendations

63) The Committee recommended that-

1) **The Accounting Officer should, within three months of tabling and adoption of this report, ensure that the un-cleared amount of KSh.10,158,364.85 which the Ministry had not settled is audited and if found valid paid without any further delay;**

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

Emphasis of Matter

3. Budget Performance and Control

64) The Summary Statement of Appropriation-Recurrent reflects a final budget and actual expenditure of Ksh.42,539,648,623 and Ksh.38,907,442,486 respectively, resulting in under expenditure of Ksh.3,632,206,137 or 8.54%. The Summary Statement of Appropriation-Development also reflects a final budget and actual expenditure of Ksh.24,614,296,621 and Ksh.19,513,275,142 resulting in an under-expenditure of Ksh.5,101,021,479 or 20.72%. Although the overall performance was satisfactory, there are individual budget line items namely: - other grants and transfers, acquisition of assets and compensation of employees where the under absorption exceeded the stipulated 25% threshold. My opinion is not modified based on the above matter.

Submission by the Accounting Officer

65) The Accounting Officer submitted that the National Treasury had a final recurrent budget of Ksh.42,539,275,142 out of which Ksh.38,907,442,486 was the actual expenditure resulting to an under expenditure of Ksh.3,632,206,137 or 8.54% while Development vote had total actual expenditure of Ksh.19,513,275,142/- against a budget of Ksh.24,614,296,621/-, resulting to an under expenditure Ksh.5,101,021,479 or 20.72%. The under expenditure on recurrent was due to additional funds that were provided in supplementary Estimates no.2 that was approved by Parliament in late June 2018 which could not be utilized by 30th June 2018, the closure of financial year under review. On the other hand, the under expenditure in development was due to the allocation of Equalization Fund that was not utilized due to lack of Implementing Policy.

Committee Observations and Findings

66) The Committee observed and found that:
1) The under expenditure on recurrent was due to additional funds that were provided in supplementary Estimates no.2 that was approved by Parliament in late June 2018 which could not be utilized by 30th June 2018; and
2) The Committee observed that the explanation given by the Accounting Officer on the budget performance and control was satisfactory.

Committee Recommendations

67) The Committee recommended that-

1) **The CS National Treasury should ensure that no supplementary budget estimates is submitted to Parliament later than two months before the close of the financial year ; and**
2) **Section 44 of the PFM Act, 2012 should be amended to provide for the supplementary budget estimates be submitted to Parliament not later than two months (60 days) before the close of the affected financial year.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

4. Procurement for Services of Cash Management Solution

68) During the year under review, the National Treasury through restricted tender contracted and paid a supplier to implement a cash management solution for both National and County Governments as well as train and support. This was contracted at the sum of Ksh.35,140,040 with an implementation period of 12 months to 31 October 2016. Three firms recommended as accredited Oracle cash management solution suppliers had been invited to bid for the tender. However, the price bid submitted by the winning supplier was significantly lower than those of the other two bidders, which stood at Ksh.157,798,048 and Ksh.181,401,356. It is not clear as to why there was such a significant disparity.

69) Upon award, the contracted supplier was unable to complete within the stipulated timeline resulting into implementation a no cost extension of the contract for a period of 11 months with a one-year post support contract ending 30 September 2017. Available information indicate that the contract was subsequently re-extended for a further period of 12 months to 31 Dec 2018 at an additional cost of Ksh.2,067,120 contrary to Section 75 of the Public Procurement and Asset Disposal Act, 2015.

70) A review of the contract implementation status as of date of finalizing this audit indicated that the project was incomplete. In the circumstances, it has not been possible to confirm whether The National Treasury got value from the above procurement.

Submission by the Accounting Officer

71) The Accounting Officer submitted that the National Treasury, in accordance with Section 86 (1) (a) of the Public Procurement and Asset Disposal Act, 2015, awarded the tender to the lowest evaluated price bidder.

72) Initially the Cash Management Business Process Flow was developed without the Controller of Budget but was later included and this caused delay in completion that led to extending the implementation period at an additional Ksh.2,067,120. The project was completed in 2018 and The National Treasury got value for money because the final cost of the project came to Ksh.37,207,160, which is much lower than the second quoted figure of Ksh.157,798,048.

Committee Observations and Findings

73) The Committee observed and found that:
   1) The National Treasury was yet to give the status of the project. The Committee wondered how a critical stakeholder like the Office of the Controller of Budget was omitted from the initial process flow of the project;
   2) There was a red flag for cover bidding. The price quoted by the winning supplier was significantly lower than those quoted by the other two suppliers. The supplier quoted a significantly low bid compared to the other bidders who are oracle accredited firms;
   3) The Accounting Officer failed to provide an explanation on what informed the use of restricted tendering for a cash management solution, a service that is neither complex nor specialized service as contemplated in Section 102 of the PPAD Acct, 2015.
   4) The project was incomplete and the contract was subsequently re-extended for a further period of 12 months to 31 Dec 2018 at an additional cost of Ksh.2,067,120 contrary to Section 75 of the PPAD Act, 2015. All stakeholders are yet to start operating the system; and
   5) The matter therefore remained unresolved.

Committee Recommendations

74) The Committee recommended that-
   1) **The EACC should within, three (3) months of tabling and adoption of this report, initiate a forensic investigation into the procurement process for Services of cash management solution.**
   2) **If found culpable for bid rigging, Oracle and any of its associates should be debarred by PPRA from doing any business with national and county governments and any public institution for at least 10 years as per provisions of Section 41 of the PPAD Act 2015.**

5. Non-Adherence to Human Resource Policy

75) Public Service human resource policies and procedures manual of 2016 has provisions for recruitment, selection, appointment and transfers of public officers. Contrary to the provisions, The National Treasury has designated a non-public officer into the role of Acting Director - Integrated Financial Management Information Systems of (IFMIS). No information has been availed regarding the designate, consequently it has also not been possible ascertain the terms of engagement and the remuneration thereof

Submission by the Accounting Officer

76) The Accounting Officer submitted that the Public Service Human Resource Policies and Procedures Manual of 2016 has provisions for recruitment, selection, appointment and transfers for public officers contrary to the provisions, National Treasury has designated a non-public officer in to the role of acting Director – Integrated Financial Management Information Systems (IFMIS).

77) The working relationship between the current Director, IFMIS and the National Treasury commenced in July 2005 when the ICT Authority engaged four (4) consultants under the

World Bank though the Kenya Transparency & Communications Infrastructure Project (KTCIP) to provide Technical Assistance to the Treasury.

78) The current Director IFMIS was assigned to support the activities of the Integrated Financial Management Information System (IFMIS) mainly in budgeting, procurement, accounting and associated monitoring and evaluation aspects. The contract was extended vide letter No AG/CONF/3/86/TY/(2) dated 19th December, 2018 (copy attached. Attachment 'A') for a period of six (6) months. The contract expired on 30th June, 2019.

79) Mr. Kamanguya was appointed as Ag. Director IFMIS vide letter No. AG/CONF/3/86/6/3 VOL. I/10 dated 5th April, 2018 by the Principal Secretary, National Treasury. However, the Principal Secretary was advised vide memo No. MOF/CONF/HRM/18/05/01 'B'/(21) dated 30th April, 2018 that since Mr. Kamanguya had been engaged as a consultant he could not hold a Public Office during the contract period (see memo attached). In view of the above a request was made to the Commission to appoint him as IFMIS Director on expiry of his contract. Given that he was serving as a consultant; he did not have a personal file during the period under review.

80) On expiry of his contract, he was appointed to the position Director IFMIS by the Public Service Commission vide letter PSC/6/92/(4) dated 29th May, 2019 for a period of there (3) years on Local Agreement terms with effect from 1st July, 2019.

Committee Observations and Findings

81) The Committee observed and found that:

1) the information and documentation provided by the Accounting Officer with regard to the recruitment of the IFMIS Director were reviewed. However, it was still not clear which criteria was used by the Ministry to engage the services of the officer between 5th April 2018 and 1st July 2019 given that he was still a consultant elsewhere;
2) the Ministry did not engage the Public Service Commission to fill the position of the Director of IFMIS as prescribed in the law and regulations;
3) the appointment of Mr. Stanley Kamanguya, non-public officer who was also a practicing Consultant into the sensitive role of Acting Director, IFMIS was in total disregard of the Human Resources Policy in the Ministry; and
4) The matter therefore remains unresolved.

Committee Recommendations

82) The Committee recommended that-

1) **The Public Service Commission should, within three (3) months of tabling and adoption of this report, investigate the Accounting Officer who authorized the appointment on acting capacity and should be surcharged for any irregular expenditure on all salaries and remunerations paid to the Officer between 5th April 2018 and 30th June 2019 and report the recovery to the Auditor-General for audit review in the subsequent audit cycle;**

2) **The Public Service Commission should, within three (3) months of tabling and adoption of this report, investigate the organization, administration and personnel practices of the National Treasury and report back to Parliament in line with its mandate under Article 234 (2) (d) of the Constitution;**
3) **The Public Service Commission should revoke any acting or substantive appointment that was not approved as required under Article 234 (2) (a) (ii) of the Constitution.**

6. Continued Retention of Retired Public Officers

83) Section B.20(1) subsection (2) and (4) of the human resource policies and procedures manual 2016 provides for appointment on contract where officers are appointed to serve on fixed term projects and capacity in the public service is lacking or specific skills are required. A review of sample personnel files on local contract terms revealed that seven (7) officers who had attained the mandatory retirement age of sixty (60) years and are not registered as persons living with disability are under contract. Three of the seven officers have had their contracts extended severally. At the initial authorization for the contract extensions, the Commission had advised the National Treasury to plan to build capacity by competitively filling of the positions. Although the management has rendered explanations for the extensions, the affected officers had been heading their respective departments for significantly long durations prior to their retirement. This is indicative of poor or lack of succession planning on the key positions at the National Treasury.

Submission by the Accounting Officer

84) The Accounting Officer submitted that Section B 20(1) sub section (2) and (4) of the Human Resource Policies and Procedures Manual 2016 provides for appointment on contract where officers are appointed to serve on fixed term projects and capacity in the public service is lacking or specific skills are required. A review of the sample personal files revealed that the seven (7) officers who had attained sixty (60) years and are not registered as persons with disability are under contract. Three of the seven officers have had their contracts extended severally. At the initial authorization for the contract extensions, the Commission had advised the National Treasury to plan to build capacity by competitively filling of the positions. Although the management has rendered explanations for the extensions, the affected officers had been heading their respective departments for significantly long durations prior to their retirement.

85) The Auditor Generals' observation on retention of staff beyond the mandatory age limit is noted. However, the National Treasury has been addressing the staffing gaps arising from staff exits mainly through retirement and transfer of service to the county governments. To ensure that crucial ongoing activities are not affected, authority was sought from the Public Service Commission (PSC) pursuant to Article 234(2)(i)(ii) of the Constitution which assigns powers to PSC to establish and abolish offices in the public service and to appoint persons to hold or act in those offices, to retain the officers. The requests for extension of services were approved, while some of the officers have

exited and the contracts for the remaining two will expire end of June this year. Copies of the requests and contract extensions were attached for perusal by the Committee.

Succession Management

86) The National Treasury acknowledges the importance of succession management as observed by the Auditor General in his report for the year 2017/2018. The National Treasury reviewed its organizational structure to align it to the Constitution and the Public Financial Management Act. Thereafter, the Public Service Commission approved the proposed structure and staffing levels in 2015 and 2016 respectively. To fill the staffing gaps, Schemes of Service for the technical personnel in the National Treasury were developed and the vacant posts declared to the Commission, advertised and filled.

Committee Observations and Findings

87) The Committee observed and found that:
   1) the National Treasury has continued to retain officers beyond stipulated age while there are highly qualified young public officers in the services.
   2) in the UK for example, Mr. Simon Case, the Head of Public Service is just 41 years old; and
   3) the Officers in question have since exited the Service in June 2020;

Committee Recommendations

88) The Committee recommended that-
   1) **The Public Service Commission should, within three (3) months of tabling and adoption of this report, investigate the organization, administration and personnel practices of the National Treasury with a view to determine how many persons beyond the stipulated retirement age are still in service in line with its mandate under Article 234 (2) (d) of the Constitution.**
   2) **The Public Service Commission should revoke any acting or substantive appointment for any person that is sixty years or older and is not registered as person with disability if the appointment was not approved by the Commission as required under Article 234 (2) (a) (ii) of the Constitution.**
   3) **The Public Service Commission should stop forthwith any further approval for substantive or acting appointment of any person beyond the stipulated retirement age.**

89) <u>The Committee observed that Paragraph 7 on lawfulness and effectiveness in use of public resources was discussed and found as satisfactory.</u>

NATIONAL EXCHEQUER ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

8. Unqualified Opinion

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

Emphasis of Matter

9. The On-going Special Audit on Euro Bond

91) I wish to draw your attention to the statement of assets and liabilities for the National Exchequer Account as at 30 June 2017 which reflected an Exchequer balance of Ksh.30,928,022,009 as at the end of the financial year. However, and as indicated in the Auditors report for 2014/2015 the receipt of net proceeds from commercial financing (Sovereign/Euro Bond) of Ksh.215, 469,626,036 accounted for in 2014/2015 financial year could not be ascertained as investigation into the receipts, issues, accounting and utilization of the funds related to the Sovereign/Euro Bond had not been concluded as at 30 June 2018. Under the circumstances, the accuracy of the Exchequer balance of Ksh.59,808,758,121 brought forward from 2015/2016 cannot be ascertained.

Submission by the Accounting Officer

92) The Accounting Officer submitted that during the last Public Accounts Committee meeting the Auditor reported that the special audit had been concluded and the report will be shared with the Committee.

Committee Observations and Findings

93) The Committee observed and found that the report on the Special Audit on Eurobond has not been formally tabled in the House to date; and therefore the matter remained unresolved.

Committee Recommendation

94) The Committee recommended that-

The Auditor-General should, within seven (7) days of tabling and adoption of this report, submit to the National Assembly a copy the special audit report on Eurobond.

10. Budget Control and Performance

95) A review of the statement of comparison of budget and actual performance indicate that the Exchequer disbursements to (12) twelve Ministries, Departments and Agencies (MDAs) for the period under review was at 94% and 87% of their budgeted allocations for Recurrent and Development votes respectively. Under the Recurrent Vote, some MDAs received as low as 56% of their voted provisions while others received their total allocation. Similarly, under the Development Vote, other MDAs received as low as 0% of their voted provisions while others received their total allocation. Failure to release the budgeted provisions may hinder the accomplishment of the planned projects by MDAs and hence affect the service delivery to the citizens by the entities.

Submission by the Accounting Officer

96) The Accounting Officer submitted that a review of the Statement of Comparison of Budget and actual performance indicates that the Exchequer disbursements to twelve MDAs for the period under review was 94% and 87% of their Recurrent and developments allocations respectively. However, there were some MDAs that got as low as 56% and others received 0% of their voted provision.

97) We note the Ministries, Departments and Agencies (MDAs) with low budget utilization especially on Development Vote among them being:

i. State Department for Fisheries, Aquaculture and the Blue Economy
ii. State Department for Tourism
iii. Parliamentary Service Commission
iv. National Gender and Equality Commission

98) Ministries have to process their payments and make exchequer request when ready to make payments and therefore in absents of exchequer request from the MDAs, releases of funds may not be possible thus arising to low budget utilization. It is also important to note that Donor funds are part of Voted provision for development and therefore low disbursement of donor funds from development partners affects the utilization of budget by the respective MDAs.

99) State Department for Fisheries, Aquaculture and the Blue Economy and National Gender and Equality Commission whose development budget are mainly donor funds, have low budget utilization due to low disbursement of donor funds.

Committee Observations and Findings

100) The Committee observed and found that the Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory.

Committee Recommendation

101) The Committee recommended that-

The Cabinet Secretary, National Treasury should ensure that the budget prepared by the National Assembly Departmental Committees and the National Treasury are realistic and adheres to credible budgeting to ensure that the revenue raised are adequate to cover the expenditures.

102) <u>The Committee observed that Paragraph 11 and 12 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

THE RECEIVER OF REVENUE (RECURRENT)

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

13. Variances between Revenue Statement balances and the General Ledger balances

103)The statement of receipts and transfers for the year ended 30 June 2018 reflects balances which were in disagreement with those reflected in the General ledger as tabulated below:

Item(s) Description	Financial Statements		Variance Ksh.
	Receiver of Revenue Ksh.	**General Ledger Ksh.**	
Taxes on Income and Capital Gains	657,186,136,271.60	657,409,782,534.70	**223,646,263.10**
Taxes on Goods and Service	524,881,879,090.21	670,039,515,029.45	**145,157,635,939.45**
Taxes on International Trade & Transactions	117,512,789,772.75	118,327,012,676.85	**814,222,904.10**
Other Taxes	12,117,526,460.55	12,239,988,748.00	**122,462,287.45**

104)No reconciliation statement provided to account for the differences between the two sets of records that are ordinarily supposed to agree.

Submission by the Accounting Officer

105)The Accounting Officer submitted that the Statement of Receipts and transfers for the year ended 30th June 2018 reflects balances which were in disagreement with those reflected in the General Ledger. The National Treasury encountered system challenges while capturing revenue receipts through IFMIS Accounts Receivables Module since the system only recognized some codes. The system did not recognize default code (0000-000000) in the Ledger though they were captured as receipts for the year. The issue was addressed by the IFMIS technical Unit and the default codes 0000-000000 were changed to the correct administration code 0101-000101. The process of capturing the receipts afresh commenced using the correct code and a reconciled Revenue Statement were availed for Audit. The correct figures are those in financial statement and the Ledger have been reconciled.

Committee Observations and Findings

106)The Committee observed and found that:

1) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that the National Treasury prepares accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts. Unreconciled revenue statements compromise the basis of sharing revenue between the national government and Counties as stipulated in Articles 202 and 203 of the Constitution; and

2) The financial statements were however later reconciled in the succeeding financial year. The general Ledger with the correct amounts reconciled were availed and verified by the Auditor General.

Committee Recommendation

107) The Committee recommended that:

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

14. Failure to reconcile Arrears of Revenue

108) The statement of arrears of Revenue as at 30 June, 2018 reflects outstanding arrears of revenue of Ksh.305,909,926,390 while the KRA Revenue Accountability Statement reflects arrears of revenue of Ksh.288,123,529,688 resulting in a difference of Ksh.17,786,396,702. In the absence of reconciliation between the National Treasury revenue statement and KRA Revenue Accountability Statement, it has not been possible to confirm the accuracy of the statement of arrears of revenue as at 30 June 2018.

Submission by the Accounting Officer

109) The Accounting Officer submitted that the statement of arrears of revenue as at 30th June 2018 reflects outstanding arrears of revenue of KSh.305,909,926,390 while KRA Revenue Accountability Statement reflects arrears of Revenue of KSh.288,123,529,688 resulting to a difference of KSh.17,786,396,702. The National Treasury's reported figure of KSh.305,909,926,390 comprises of a total figure of KSh.288,123,529,688 being Domestic Tax department, legacy figure of KSh.173,351,000,000, iTax figure of KSh.114,772,529,688 and KSh.17,786,396,702 being custom service department. The National Treasury figures agree with those of KRA. A Copy of the reconciled revenues were attached for perusal by the Committee.

Committee Observations and Findings

110) The Committee observed and found that:

1) The arrears of revenues have continued to grow from Ksh.194billion in FY 2016/17 to Ksh.306 billion in the FY 2017/18;
2) The explanations and documents provided by the Accounting Officer were satisfactory. The Auditor-General reviewed and verified the documents and the KRA revenue accountability statement was in agreement with the financial statements of the National Treasury.

Committee Recommendation

111) The Committee recommended that-

The Cabinet Secretary for the National Treasury, the KRA, and other receivers of revenues re-look their strategy for collecting the growing arrears of revenue.

The KRA should spruce up its image as an enabler of businesses and embrace alternative disputes resolutions (ADR) mechanism to solve revenue related disputes.

15. Long Outstanding Items in Bank Reconciliation Statements

112) The bank reconciliations statement for the statement receiver of revenue for the year ended 30 June 2018 revealed the following unsatisfactory matters:

i. Payments in cashbook not in bank statement amounted to Ksh.14,267,291,907 out of which Ksh.605,746,618 or 4.25% are stale cheques with some dating as far back as 29 June 1996.

ii. ii) Receipts in bank statement not recorded in cashbook amounted to Ksh.34,524,942,823 out of which an amount of Ksh.31,525,074,243 or 91.31% related to balances dating as far back as September 1997. No explanation has been given for failure to update the cashbook.

iii. iii) Payments in bank statements not in cashbook amounted Ksh.15,723,735,928 all of which related to 2016/2017 and earlier years.

iv. iv) Receipts in cashbook not in bank statement amounted to Ksh.25,760,678,513 out of which an amount of Ksh.16,240,834,531 related to 2016/2017 and earlier years with some dating as far back as January 2000.

113) Failure to analyse and updating the accounting records may lead to misstatement of the cash balance reflected in the cashbooks and bank statements, which would in turn compromise the accuracy of the financial statements prepared therefrom.

Submission by the Accounting Officer

114) The Accounting Officer submitted that at the time of audit, the issues raised by the Auditor on (i) to (iv) were correct, however, the Bank Reconciliation was done and an updated Bank Reconciliation statement of May 2019 clearing long outstanding items was submitted for audit review. The Auditor and the National Treasury later resolved the issue.

Committee Observations and Findings

115) The Committee observed and found that:

1) The Accounting Officer failed to provide necessary explanations and documents with regard to long outstanding items in bank reconciliation statements during the audit period;
2) The National Treasury does not comply with its own Regulation 90. (1) of the PFM (National Government) Regulations 2015, which mandates Accounting Officers to ensure that every month, bank accounts are reconciled for each bank account held by any agency and a reconciliation statement sent to the National Treasury with a copy to the Auditor-General not later than the 10th of the subsequent month; and
3) The financial statements were however later reconciled in the succeeding financial year. The bank reconciliation statements with the correct amounts reconciled were availed and verified by the Auditor General.

Committee Recommendation

116) The Committee recommended that-

The Cabinet Secretary to the National Treasury should within three months (3) of tabling this report issue an administrative reprimand letter to the Accounting Officer for violation of Regulation 90. (1) of the PFM (National Government) Regulations 2015 on reconciliation of bank accounts.

117) <u>The Committee observed that Paragraph 16 and 17 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

RECEIVER OF REVENUE (DEVELOPMENT)

REPORT ON THE REVENUE STATEMENTS

Unqualified Opinion

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

19. Emphasis of Matter

118) The statement of comparison between the budget and Actual Amounts under Receipts and Payments reflects proceeds from borrowings (Loans) budget of Ksh.33,573,859,777 compared to the actual receipts realized of Ksh.24,149,910,718. This gives a variance under-realization and utilization of Ksh.9,423,949,059 or 28% of the budgeted funds. The management indicated that the project implementing units were required to exhaust the already released funds before accessing funds allocated in the current financial year hence the poor absorption of budgeted funds there by leading to under expenditure. The MDAs may not have fully realized their potential from activities approved in the budget thus delaying provision of services to the citizens.

Submission by the Accounting Officer

119) The Accounting Officer submitted that the Statements of comparison between the budget and actual amounts under Receipts and Payments reflects proceed from borrowings (loans) budget of KSh.33,573,859,777/- compared to the actual receipts realized of KSh.24,149,910,718/- giving a variance under-utilization of KSh.9,423,949,059/- or 28% of the budgeted funds. The under under-utilization of funds was due to slow disbursements by donors.

Committee Observations and Findings

120) The Committee observed and found the explanation given by the Accounting Officer with regard to the budget and Actual Amounts under Receipts and Payments was satisfactory therefore, the Committee marked the matter resolved.

121) <u>The Committee observed that Paragraph 20 and 21 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory</u>.

STATEMENT OF OUTSTANDING LOANS

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

22. Lack of fundamental documents and Criteria loans

122) The management could not provide the annual work plans, cashbooks, ledger, trial balances, quarterly reports and monitoring and evaluation reports for the loans issued during the year or such other documents for the determination of the beneficiaries, terms of the loans and the approval /authorization of disbursement made. It was also noted that institutions continue to receive additional funding even when they are underperforming thereby casting doubt on the criteria used to determine the advance of new loans.

123) In the absence of budgets, annual plans, assessment or evaluation and performance reports of the loaning portfolios, the propriety on the utilization of public funds could not be ascertained. There is also a high likelihood of non-repayment of the loans leading to continued write offs of bad debts and loss of public funds.

Submission by the Accounting Officer

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

125) Upon the execution of the Subsidiary Loan Agreements, the details of the loan, terms and conditions are captured in respective loan ledger card. The fundamental documents in this case include Project Appraisal documents, Project agreements, Financing Loan Agreements, Subsidiary Loan Agreements and loan ledger cards. The ledger cards, which are available for Audit. The criterion used on government lending is as follows: -

i. Projects implemented through Government lending are aligned to the national development policies and programmes, as prescribed by, Medium Term Plan (MDP),
ii. The Big 4 Agenda and Vision 2030 as developed by the Government through the Ministry of Planning.
iii. Project identification and design are based on the concept paper and the feasibility study carried out through the respective technical ministries.
iv. Project appraisal documents and project agreements are entered into before the Financing Agreement between the financiers, the line ministry and the

implementing agent.

v. All government loans are factored in the MTEF budget and approved by National Assembly before commitment and disbursements.

vi. Conditions precedent to effectiveness and disbursements are stipulated in the Financing Agreement between the donor and the National Treasury.

vii. After disbursement of the proceeds the implementing agency submits a report to the Government on the expenditure and performance achieved in relation to the project and amount lent within fifteen days after the end of each quarter.

viii. The amount lent and project implementation is subject to audit by Office of Auditor General, or any other auditor whose appointment by the Auditor General is provided for in the agreement, to assess performance and value for money.

ix. The implementing Entities who are the recipient of the loans are mainly State Corporations, are audited by the Auditor General in accordance with the Audit Act, are expected to open individual loan and project account and maintain all relevant records.

x. The Disbursement Unit of the National Treasury records the loan disbarments by the financiers.

xi. Loan and interest repayments should be and are paid to The Principal Secretary/National Treasury who is the Receiver of this class of Revenue in accordance with the terms of the On-lending Loan Agreements.

xii. Where non-compliance by an implementing agency with the loan conditions is established through the audit or fiduciary review process, the Cabinet Secretary and/or Donor may suspend the disbursements and institute measures to recover any amounts misappropriated in accordance with the PFM Act.

xiii. The Government may advance loans to Agencies that may appear to be non-performing but are strategic in nature and for the public/social good.

Committee Observations and Findings

126) The Committee observed and found that:

1) The National Treasury did not to have a proper system in place to provide an explanation as to the process of providing loans to various Government entities and the controls in place to ensure that the loans are repaid on time and in the format prescribed;
2) The National Treasury did not have a clear criterion to use to determine which government entity is entitled to what amount of loan; and
3) The National Treasury did not have a clear criterion to determine which Government entity is eligible to loan write-offs in case of perennial defaults explanations.

Committee Recommendation

127) The Committee recommended that-

The CS for the National Treasury and Planning should, within three months (3) of tabling this report, ensure that the National Treasury develops a comprehensive framework for on-lending and loan write-offs to government entities by the National Treasury.

23. Previous year matters

i) Outstanding Loan balances

128) The statement of outstanding loans as at 30 June 2018 reflects a net balance of Ksh.799,766,815,394 which represents an increase of Ksh.6,030,453,524 or approximately 0.76% of total outstanding loan balance of Ksh.793,736,361,870 reported as at 30 June 2017. The balance of Ksh.799,766,815,394 includes new loans issued in 2017/2018 totalling Ksh.55,981,443,441. During the year under review, only Ksh.2,852,780,790 of the loans issued had been redeemed/repaid while loans amounting to Ksh.4,255,786,418 were written off.

129) Further, the accuracy of outstanding loans balance of Ksh.793,736,361,870 as at 30 June 2017 could not be confirmed as only sixteen (16) institutions/parastatals responded to circularization done at the close of the year, out of which only four institutions balances agreed with the balances held in the National Treasury's records. The other twelve (12) institutions independently confirmed to have a total loan balance of Ksh.576,314,882,795 as at 30 June 2017 whose total balance differed by Ksh.3,810,565,700 with the loan balance of Ksh.572,504,317,096 reflected in the statement.

130) The resultant variance of Ksh.3,810,565,700 has not been reconciled or explained casting doubt on the accuracy of the outstanding loan balance of Ksh.793,736,361,870 carried forward to 2017/2018 financial year. It was also noted that out of the possible seventy-two (72) institutions only 16 or 22% responded to the circularization. It was also noted that, the National Treasury has been updating records based on the responses thereby defeating the purpose for such circularization. In the absence of the responses to circularization and elaborate reporting instrument there is a likelihood of holding in the books non-existent loan balances.

Submission by the Accounting Officer

131) The Accounting Officer submitted that to confirm the accuracy of the outstanding loan balance of Ksh.799,766,815,394, the National Treasury circularized and requested Entities with outstanding Loans to confirm directly to the Auditor General the principal Loan amounts owed to the National Government as at 30th June 2018. Thirty-eight (38) active entities, out of the seventy-two (72) entities in the loans register, were circularized.

132) By the time of audit, only sixteen (16) entities had responded/confirmed their loan balances. However, responses from all the 38 entities were later received. As observed by the Auditor thirty-four (34) entities reported balances that differed from those reported by the National Treasury therefore necessitating a reconciliation of the two sets of records. The differences/variances were reconciled/analyzed.

133) While some of the variances have been reconciled and agreed with the Auditor and the Statement of Outstanding Loans adjusted where appropriate, some on-lent loan balances remain unreconciled. Efforts are being made to find the relevant data that will enable

clear the outstanding reconciliations. The National Treasury loans data has been, and continues to be up-dated upon completion of reconciliation and where the documentary proof is sufficient to support such actions. During the financial year under review, Ksh.2,852,780,790 in loan repayments was received. Loans amounting Ksh.4,255,786,418 were written off while new loans amounting to Ksh.55,981,443,441 were issued.

Committee Observations and Findings

134) The Committee observed and found that:

1) The the Accounting Officer failed to reconcile in time for audit, the variance of Ksh.3.81 billon thereby casting doubt on the accuracy of the outstanding loan balances. The Ministry has been requesting parastatals to respond with updates of their outstanding loan balances but the National Treasury has not been updating records based on the responses thereby defeating the purpose for such circularization;
2) The National Treasury has undertaken to do a thorough reconciliation between the records at the National Treasury and the beneficiary institutions and a status report should be provided;
3) The National Treasury has not been doing regular reconciliations between their records and those of the beneficiary institutions;
4) No reasons were given for the write-off of loans amounting to Ksh.4.25billion and that the write-off was not in compliance with the provisions of Section 69 of the PFM Act, 2012 and Regulations 145-159 of the PFM (National Government) Regulations, 2015; and
5) The matter therefore remained unresolved.

Committee Recommendation

135) The Committee recommended that

The CS for the National Treasury and Planning should, within three months (3) of tabling this report, ensure that the National Treasury develops a comprehensive framework for on-lending including loan write-offs to government entities by the National Treasury.

ii) Non-Performing or Dormant Loans

136) As was reported during the financial year 2016/2017, the total outstanding loans balance of Ksh.799,766,815,394 reflected in the financial statements for the year ended 30 June 2018 includes loans amounting to Ksh.47,520,436,604, which has fallen due for redemption at various dates over the years. However, during the year under review, the institutions have not made any repayment against their respective loans. Failure to redeem loans precipitate a high likelihood of defaulting and eventual loss of public funds.

Submission by the Accounting Officer

137) The Accounting Officer submitted that the non-repayment of the loans is mainly attributed to reforms and/or changes in law, ongoing privatization process, financial difficulties, and loans that are still being disbursed and not yet due for repayment. The

reasons for non-repayment of loans from institutions vary from one institution to another.

Committee Observations and Findings

138) The Committee observed and found that:

1) There were recommendations made to the Cabinet, which held a special meeting and made approvals for write-offs, waivers of accrued interest and restructuring of the loans. However, the progress made so far on the recommendations/ approvals of the Cabinet which were made in May 2018 was not given;
2) The Accounting Officer did not make adjustments on the revenue schedules to reflect the position at the bank within one month after the close of the financial year pursuant to Regulation 97 (3) read together with Regulation 97 (1) of the PFM (National Government) Regulations 2015; and the matter therefore remained unresolved.

Committee Recommendation

139) The Committee recommended that-

The CS for the National Treasury and Planning should within three months (3) of tabling this report, ensure that the National Treasury develops a comprehensive framework for on-lending including loan write-offs and repayments.

140) <u>The Committee observed that Paragraph 24 to 25 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

EQUALIZATION FUND

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

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

Emphasis of matter

27. Use of Budget as a Control Tool - Budget Performance

141) The statement of Comparison of Budget and Actual performance indicate that the management did not provide any receipts to be transferred from the National Treasury, but anticipated to utilize an amount of Ksh.11,977,764,288 which was Ksh.520,078,232 over and above the audited opening balance held at the Fund account at the Central Bank of Kenya of Ksh.11,457,686,056. Consequently, during the year under review, no amount was appropriated for the Fund despite the fact that an amount of Ksh.6,571,560,117 ought to have been transferred to the Fund based on the 2016/2017 audited financial statements. Out of the budgeted amount of Ksh.11,977,764,288, Ksh.6,937,847,293 or 57.9% was transferred to implementing MDAs during the year. The management has not given plausible explanation for failure to budget for any receipts to the fund despite this being a constitutional requirement. Failure to budget for

the transfer implies a deliberate intent to deny service delivery to the intended beneficiaries.

Submission by the Accounting Officer

142) The Accounting Officer submitted that it was anticipated that the Fund would utilize an amount of KSh.11,977,764,288 which was slightly over and above the funds balances in Central Bank of Kenya KSh.11,457,686,056. The difference of KSh.520,078,232 was the bank balances in the Equalization Fund Operations Accounts of the Ministries. There was no budget for the fund in FY 2017/18 because of the challenges that were being experienced in implementation. The reasons and challenges in the implementation of the Fund, among them being delay in formulation of policies and project identification coupled by the legislative handles since inception. It is our sincere hope that the current legal issues surrounding the Fund shall be unlocked to ensure that the country achieves the envisaged goals by the 20 years' period as provided under Article 204 (6) of the Constitution.

Committee Observations and Findings

143) The Committee observed and found that:

1) The mater served to inform the users of the financial statements;
2) The total cumulative allocation to the Fund since inception stood at Ksh.12.4 billion as at 30th, June 2019. This was lower than the Constitutional total cumulative threshold estimated at Ksh.29.4billion calculated based on the requirement of 0.5% of national revenue raised annually, audited and approved by National Assembly; and
3) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

28. Compliance with the Constitution

144) Article 204(1) of the Constitution of Kenya requires that one half per cent (0.5%) of all the revenue collected by the National Government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly be paid into the Equalization Fund. The total accumulated entitlement to the Fund for the financial years 2011/2012 to 2016/2017 are estimated at Ksh.21.97billion as at 30 June 2018. A review of the financial statement however revealed that only Ksh.12,400,000,000 or 56.4% has been appropriated and transferred to the Equalization Fund Account.

145) Further, out of available funds amounting Ksh.12,400,000,000 that has been transferred to the Fund Account, only Ksh.7,880,161,237 or 63.5% has been disbursed for projects implementation through the MDAs in the Counties. The disbursed amount represent a meagre overall performance of 36% against the estimated amount since the inception of the Fund. The Fund Administration has cited delayed formulation of policies and project

identification coupled by the legislative handled since inception. At that rate, the country may not have achieved equality or bridged the gap between the rich and the poor region as envisaged by the 20 years period as provided under Article 204(6) of the Constitution.

Submission by the Accounting Officer

146) The Accounting Officer submitted that it was true the total accumulated entitlement to the Fund for the financial years 2011 / 2012 to 2016/2017 was estimated at KSh.21.07 billion as at 30th June, 2018. It's also true that KSh.12,400,000,000 has been appropriated and transferred to the Equalization Fund Account out of which KSh.7,880,161,237 has been disbursed for projects implementation through various ministries and state departments

Committee Observations and Findings

147) The Committee observed and found that:

1) There was a risk that the National Treasury as the administrator of the Fund may not achieve the intended purpose of the Fund as contemplated in the Constitution since there were delays in the implementation of the Equalization Fund Appropriation Act by the National Treasury;
2) The National Treasury might be strangling the Fund by deliberately denying it money and slow policy and administrative set-up processes;
3) There was an outstanding balance of Ksh.19.1billion which should be the total entitlement into the equalization fund since inception. The national Treasury should allocate and transfer the monies to the Fund;
4) In addition, the Committee observed that the National Treasury had not put in place measures to hasten the implementation of the Fund and recover the ten (10) years lost so far; and
5) The matter therefore remained unresolved.

Committee Recommendations

148) The Committee recommended that-

The CS for the National Treasury should, within three (3) of tabling and adoption of this report, ensure that the right mechanism for implementation of the Fund is in place and the outstanding entitlement balance of KSh.19.1 billion is budgeted for and deposited into the Fund.

149) The Committee observed that Paragraph 29 to 33 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

34. Non-Compliance with Requirements of Public Finance Management Act, 2012

150) During the year under review, an amount of Ksh.1,050,000,000 was paid out of the Contingencies Fund on 29th May 2018 for the purposes of supporting countrywide flood response, supporting flood victims and cash release to families affected by landslides. However, it was noted that:

i) There was no documentary evidence availed to show that the Cabinet Secretary –The National Treasury submitted to Parliament a detailed report in respect of the above payments and to subsequently seek Parliament to approve the payment(s). The lack of parliamentary approval for such payments is contrary to Section 22 (1) of the PFM Act, 2012.
ii) The fund management did not avail any evidence to show that the Cabinet Secretary – The National Treasury had presented an appropriation bill to Parliament for the appropriation of the money paid and for the replenishment of the Contingencies Fund to the extent of the payment made from the Fund. Lack of the Appropriation Bill/Act referred to above is contrary to Section 22 (3) of the PFM Act, 2012.
iii) Contrary to the provisions of the Public Finance Management Act, 2012, Section 23(d) and (e), the management did not include in the statements, information whether the funds so withdrawn were spent for the intended purpose or paid to persons who were supposed to be paid.

151) The non-compliance with the Public Finance Management Act, 2012 on this matter puts to risk the operations of the Contingencies Fund to the extent of monies paid out and not replenished. There is a danger therefore that in future the Fund may be exhausted thereby failing to meet its mandate.

Submission by the Accounting Officer

152) The Accounting Officer submitted that it was true an amount of KSh.1,050,000,000 was paid out of the Contingencies Fund on 29th May, 2018 to the State Department of Interior to cater for humanitarian support extended to victims of flood tragedies. However, we wish to confirm that the Cabinet Secretary submitted to Parliament a detailed report in respect of the payments as stipulated in the PFM Act Section 22(1) as per the attached documents.

i) The Cabinet Secretary presented to Parliament a statement on approval of payment from the Contingency Fund.
ii) As soon as the parliament has approved the payment, the Cabinet Secretary shall cause an appropriate Bill to Parliament to be introduced in Parliament for the appropriation of the paid and for the replenishment of the Contingencies Fund to the extent of the amount of the payment as the PFM Act Section 22(1)-(3).
iii) The information on whether the person to whom the payment was given has spent the Money for the purpose intended has been incorporated in the Financial Statements.

Committee Observations and Findings

153) The Committee observed and found that the explanation and documents provided by the Accounting Officer have been reviewed and verified by the Auditor General and the matter is resolved.

154) <u>The Committee observed that Paragraph 35 to 38 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

RURAL ENTERPRISE FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

39. Unresolved Prior Years Matters

i) Unbanked Cash

155) The statement reflects unbanked cash balances totaling Ksh.3,348,895 brought forward from 2012/2013 and earlier years. According to available information, the amount comprises of Ksh.1,951,921 representing cash with District Commissioners (Loans Repaid); Ksh.108,840 being Cash with District Commissioners (Interest on Loans); and Ksh.1,288,135 relating to cash in the District Commissioners miscellaneous deposit account. Further, there was no evidence to confirm actual existence of the balance of Ksh.3,348,895 at the District Commissioners Office. In addition, the balance of Ksh.1,951,921 under District Commissioners (Loans Repaid) included advances amounting to Ksh.207,344 in form of IOUs issued from the Fund to some five officers working at the District Commissioner's Office, Kisumu in 1997/1998. The IOUs had not, however, been surrendered as at 30 June 2014.

ii) Unreconciled Balance

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

Submission by the Accounting Officer

157) The Accounting Officer submitted that the Funds Statements reflects unbanked cash balance totaling KSh.3,348,895 brought forward from F/Y 2012/2013 and earlier years. This is made up of balances of Ksh.1,951,920.60, Ksh.108,839.70, and Ksh.1,288,134.70 against Account Receivables-Loanee's, Cash with D.C. (Loans Repaid), Cash with D.C. (Interest on Loans) and Cash in the DC'S Miscellaneous Deposit Account respectively. Also included is an amount of Ksh,207,304/- in form of IOU's issued to five officers working at the District Commissioners office Kisumu in F/Y 1997/1998 and which had not been surrendered as at 30th June 2014. Also, the

Funds Financial Statement as at 30 June 2018 presented for audit continue to reflect a total amount of Ksh.397,908,774.30 under financial assets made up of balances of Ksh.394,559,879.30, KSh.,951,920.60, Ksh.108,839.70, and Ksh.1,288,134.70 respectively.

158) The National Treasury wrote to all District Accountants vide letter Ref No.AG 13/027 Vol. 1 (79) dated 3rd March 2015 requesting them to return any monies held in their Deposits Accounts that relates to Rural Enterprise Fund to enable us close the Funds books of Accounts. The District Accountants responded giving the challenge of documentation relating to the Fund due to manual record keeping of that time.

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

160) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. With the conclusion of the winding up, the issues raised by the Auditor will be addressed.

Committee Observations and Findings

161) The Committee observed and found that:

1) The matters will remain outstanding in these prior years until the Ministry carries out the winding up of the fund as per the legal notice no.119 of 14th September 2012. The National Treasury has established a Taskforce on winding up of Dormant Funds including Rural Enterprise Fund;
2) The Accounting Officer failed to reconcile the balances required under the law within the required timelines; and
3) The matter therefore remained unresolved.

The Committee in its report duly considered the matter in the FY 2016/2017 and a recommendation made.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

40. Winding up of the Fund

162) As was reported in the previous year, the Rural Enterprise Fund was recommended for winding up through Legal Notice No. 97 dated 29 June 2012 as contained in a special issue of the Kenya Gazette Supplement No. 119 of 14 September 2012 upon which, any outstanding amounts in the Fund was to be paid into the Consolidated Fund. However,

the National Treasury has not yet closed the Fund's books of account despite the Legal Notice and has continued to prepare and submit the Fund's financial statements for audit five years after the winding up decision was made. The financial statements presented reflect balances brought forward whose accuracy and validity could not be vouched after the winding up notice of the Fund.

163) Further, the Fund management has not provided any information on the progress made since and the probable time when the process is expected to be completed.

Submission by the Accounting Officer

164) The Accounting Officer submitted that the National Treasury had not yet closed Rural Enterprise Fund's Books of Account despite the winding up of the Fund vide Legal Notice No.97 dated 14th September 2012 and has continued to prepare and submit the Funds Financial Statements for audit.

165) As referred to in Para.39 above, this is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II(5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the Fund. The revocation orders 2020 have been submitted to The Cabinet Secretary National Treasury & Planning for approval and signature. With the conclusion of the winding up, the issues raised by the Auditor will be addressed.

Committee Observations and Findings

166) The Committee observed and found that:

1) The Committee observed that it had made a recommendation in 2016/2017 that the Cabinet Secretary for the National Treasury should, within three (3) months of tabling and adoption of its report for the FY 2016/17, finalize the winding up of the Fund and submit the winding up report in line with the PFM Act and Regulation 209 of the PFM (National Government) Regulations 2015. The National Treasury has established a Taskforce on winding up of Dormant Funds. The Taskforce is yet to conclude the process; and
2) The matter therefore remained unresolved.

<u>**The Committee in its report duly considered the matter in the FY 2016/2017 and a recommendation made.**</u>

167) <u>The Committee observed that Paragraph 41 on effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

STATE OFFICERS AND PUBLIC OFFICERS MOTOR CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

168) **Unqualified Opinion**

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

Emphasis of Matter

43. Failure to Commence Business

169) As was reported during the previous year, the State Officers and Public Officers Motor Car Loan Scheme Fund was established in 2015 through Legal Notice no. 195 of 25 September, 2015 and pursuant to guidelines provided by Salaries and Remuneration Commission on Car Loan benefit for state officers and other public servants in December 2014. However, the fund management has not undertaken any activities since then but the National Treasury continues to transfer money to the fund account at the Central Bank of Kenya which stood at Ksh.3,472,500,000 as at 30 June 2018. However, the cash balance has been confirmed to exist and safe, this amount could have been utilized for other more deserving cases in government while the National Treasury continues to develop or create an enabling environment for the Fund's operation.

Submission by the Accounting Officer

170) The Accounting Officer submitted that the State Officers and Public Officers Motor Car Loan Scheme Fund was established in 2015 through the legal notice no. 195 of 25th September 2015 and pursuant to guidelines provided by the Salaries and Remuneration Commission on Car Loan Benefits for State Officers and the Public Servants in December 2014. As at 30th June, 2018 the Fund Account at Central Bank of Kenya stood at KSh.3,472,500,000/= which had not been utilized.

171) It took some time to establish an Advisory Board to run and procure the financial institution to manage the Fund's accounts. The advisory Board is currently in office and Kenya Commercial Bank was procured to manage the Car Loan Scheme vide authority letter Ref. AG.3/88/1Vol.21/(40) dated 3rd October 2018.

172) The advisory Board started with a pilot scheme targeting 50 applicants and eighteen (18) officers applied for loans totaling KSh.48,534,586/- and already the eighteen 18 officers have benefitted from the loan scheme.

Committee Observations and Findings

173) The Committee observed and found that, in its report of 2016/2017, it had recommended that the Cabinet Secretary, the National Treasury should, within three (3) months of

tabling and adoption of its report for the FY 2016/17, roll out the Fund to the State Officers and Public Officers in order to achieve the objective of providing motorcar loans to the civil servants. If this is not possible, withdraw all the money plus interest deposited at KCB and appropriate money into the exchequer.

44. Difference between Trial Balance and the Financial Statement

174) The statement of receipts and payments of the fund shows a receipt figure of Ksh.637,500,000 being transfers from Government. The Trial balance presented on the other hand reflects transfers from Government figure of Ksh.647,300,000, which is in agreement with the General Ledger but differs with the statement of receipt and payments figure by Ksh.9,800,000. Although the management has confirmed that indeed only Ksh.637,500,000 was received in the Fund's bank account, no explanation has been provided for the difference. Further, no reconciliation has been carried out between the two records

Submission by the Accounting Officer

175) The Accounting Officer submitted that the Trial Balance reflected a figure of Ksh.647,300,000/- as transfers from the government whereas the amount received in the fund bank account was Ksh.637,500,000/- resulting to a difference of Ksh.9,800,000/-. All Cabinet Secretaries on appointment and as per their terms and condition of service are entitled for a taxable car grant allowance of KSh.14million after every four years while in office. The difference of Ksh.9,800,000 is the payment to Mr. Henry Kiplagat Rotich for a car grant allowance he applied and paid from the budget of this Fund. This has been amended with a Journal Entry being posted to the relevant economic budget Item to correct the anomaly.

Committee Observations and Findings

176) The Committee observed and found that the explanation and the journal voucher provided by the Accounting Officer to correct the erroneous posting have been reviewed, verified and are satisfactory and therefore marked the matter resolved.

177) <u>The Committee observed that Paragraph 45 and 46 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

GOVERNMENT CLEARING AGENCY FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

47. Accuracy and Presentation of Financial Statements

47.1 Failure to maintain Proper Books of Accounts

178) The statement of receipts and payments reflects Ksh.53,586,330.00 as receipts for the year ended 30 June 2018. The receipts have not been supported with verifiable primary documents. In the absence of such fundamental records and supporting documents, the

accuracy and validity of the balances indicated in the financial statements cannot be confirmed.

Submission by the Accounting Officer

179)The Accounting Officer submitted that Government Clearing Agency (GCA) Fund used to operate under the Ministry of Finance Deposit bank account and not as a separate account. Bank reconciliation statements for the deposit account for the National Treasury used to incorporate GCA transactions. Following the observation of the Auditor that the Financial Statements Fund for the Fund be prepared separately, The National Treasury was ready to effect the recommendation but from 1st July 2019 the Agency transferred to the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works as per Executive Order No.2 of 2018.

Committee Observations and Findings

180)The Committee observed and found that:

1) The Accounting Officer did not provide any evidence to show that the Ministry has implemented the recommendations contained in the audit report of 2016/2017, the issue remains as an outstanding matter;
2) The Accounting Officer did not the current status of the GCA Fund in relation to ensuring that the revenue collected is factored in the budget of the National Treasury;
3) The disclaimer of opinion issued by the Auditor-General was an indicator of serious material breach of the measures to protect public funds in the PFM Act, 2012;
4) In addition, the Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to prepare proper books of accounts that conforms to basic structure of government accounts; and
5) The matter therefore remained unresolved.

47.2 Use of Budget as a Control Tool

181)Contrary to the International Public Sector Accounting Standards IPSAS para. 1.9.8 on Presentation of a Comparison of Budget and Actual Amounts, management did not include the statement of comparison of budget and actual amounts. However, a review of the National Treasury budget indicated that the Agency’s operational budget is captured under the Head 1071009000. However, it was noted that no Appropriation-in-Aid or revenue was budgeted for and there was no designated officer as a receiver of revenue from the agency operation. In the absence of any revenue or Appropriation-in-Aid budget component in the National Treasury Approved Estimates, the Agency commercial operations are not budgeted for and thus the revenue collected is not under the control of the National Treasury.

Submission by the Accounting Officer

182)The Accounting Officer submitted that the National Treasury did not include the Statement of Comparison of budget and actual amount because The Agency was budgeted for as a Department of the National Treasury under Head 1071-0091 and not has an independent entity.

183)The Auditors observed that The National Treasury should have budgeted the funds as Appropriation-In-Aid but from 1st July 2019 the Agency was transferred to the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works as per Executive Order No.2 of 2018. However, the Agency used to operate with the following internal controls:-

i) GCA is headed by an Ag. Director who oversees its operations and often prepares reports to the Accounting Officer;
ii) The Agency is audited by our Ministry's Internal Auditors and Internal Auditors based at Mombasa office;
iii) Relevant accounting records are maintained by the Agency. These include cashbooks, general ledgers, official receipts, payment vouchers, bank statements, e.t.c.
iv) Cash board of survey is conducted after every end of financial year.
v) Bank reconciliation statements for GCA Mombasa are prepared on monthly basis

Committee Observations and Findings

184)The Committee observed and found that:

1) The Accounting Officer has not given any evidence to show that the Ministry has implemented the recommendations contained in the report of 2016/2017. The auditor in their report are indicating that there were no primary document kept for the agency;
2) The CS National Treasury failed to designate receiver of revenue for the Fund as required under Section 75 of the PFM Act, 2012; and
3) The matter therefore remained unresolved.

Committee Recommendation

185)The Committee recommended that-

The Committee in its report duly considered the matter in the FY 2016/2017 and a recommendation made.

47.3 Failure to Execute Mandate

186)As was reported in the previous year, a review of the Agency operations manual revealed that the Agency's functions are indicated as receiving of clearance/shipping documents from Government ministries/departments/state corporations and preparation and processing of imports/exports, warehousing and transport documents through customs, port authorities, shipping, transport, insurance agents- (underwriters) including banks and cargo surveillance agents; among other services. Only a meagre percentage of Ministries, Departments and Agencies, MDAs businesses are cleared by the Agency while the rest of the government importation business is taken by private companies and individuals in the industry.

Submission by the Accounting Officer

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

188) The National Treasury vide Circular No.Conf.1/08A/ (44) dated 16th April, 2007 encouraged MDA's to consult GCA for advice on all issues relating to shipment before the actual shipment of goods is done. However, due to liberalization of the economy, it is not mandatory for MDAs' imported goods to be cleared through GCA. The Agency has nevertheless continued to clear Government security and strategic goods.

Committee Observations and Findings

189) The Committee observed that:

1) There was dire need for the National Treasury to review the policy of Government clearing services to include all Government Institutions; and
2) The matter therefore remained unresolved.

Committee Recommendations

190) The Committee recommended that-

The Cabinet Secretary for National Treasury should make recommendations to the Cabinet to provide a policy to ensure that all government institutions use the Government Clearing Agency for their clearing services.

48. Prior Year Matters

i) Unsupported Long Outstanding Balances

191) As was reported during the financial year 2016/2017, the statement of assets and liabilities as at 30 June 2018 reflect a balance brought forward of Ksh.300,931,776 and Ksh.52,973,897 under Accounts Receivables – Debtors and Accounts Payables - Creditors respectively. However, these balances have not been supported with verifiable records and documents. The accuracy, completeness and validity of the balances cannot be ascertained. Further, the debtors' balance of Ksh.300,931,776 was net of a Clearance Account balance of Ksh.654,000,000 which had also not been supported with any verifiable documents making it difficult to ascertain what it represents.

ii) Unsupported Fund Balance

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

iii) Cash and Cash Equivalent

193) The statement of assets and liabilities and statement of cash flow for the year ended 30 June 2018 reflected a cash and cash equivalent closing balance of Ksh.72,435,965. A review of the Cashbook and Bank reconciliation statements for Mombasa branch as at 30 June 2017 had revealed that the Agency branch had a closing cash balance of Ksh.56,352,095 which was excluded from the cash balance disclosed in the financial statements.

Submission by the Accounting Officer

194) The Accounting Officer submitted that the Statement of Financial position as at 30 June 2017 for the Government Clearing Agency Fund reflects balances of KSh.300,931,776.15 and KSh.52,973,896.80 under Accounts Receivables – Debtors and Accounts Payables -Creditors respectively. Further, the debtor's balance of KSh300,931,776.15 is net of a clearance Account balance of KSh.654, 000,000 that have not been supported with relevant analysis and verifiable documents.

195) These unsupported old balances have been carried forward for many years and are historical balances that affects the whole Government. The National Treasury formed a taskforce on the winding up of Dormant Funds and address issues of old balances appearing in Ministries' books of Accounts with a view of clearing the same.

196) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General replied vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019. The Attorney General advised on the way forward on winding up of the Fund and The National Treasury is implementing the recommendations. The revocation order 2020 have been submitted to The Cabinet Secretary National Treasury & Planning for approval and signature. With the conclusion of the winding up, the issues raised by the Auditor under items (i) (ii) and (iii) will be addressed.

Committee Observations and Findings

197) The Committee observed and found that it had made a recommendation in 2016/2017 that the Cabinet Secretary for the National Treasury should within three (3) months of tabling and adoption of its report for the FY 2016/17, finalize the winding up of the Fund and submit the winding up report in line with the PFM Act and Regulation 209 of the PFM (National Government) Regulations 2015. The National Treasury has established a Taskforce on winding up of Dormant Funds. The Taskforce is yet to conclude the process; and therefore the matter remained unresolved.

Committee Recommendation

198) The Committee recommended that-

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

199) <u>The Committee observed that Paragraph 49 and 50 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

TREASURY MAIN CLEARANCE FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified of Opinion

51. Winding up of the Fund

200) The Treasury Main Clearance Fund has not been in operation for a long a long time. Consequently, the Public Accounts Committee it its sitting made recommendations for the Fund to be wound up among other dormant Funds. However, over the years and despite the recommendations from the Public Account Committee, the National Treasury is yet to close the Fund's books of account and has continued to prepare and submit the Fund's financial statements for audit. The financial statements contain balances brought forward, whose accuracy, existence and validity could not be vouched.

Submission by the Accounting Officer

201) The Accounting Officer submitted that the Treasury Main Clearance Fund was established under the Revised Financial Orders of 1968 edition 'Funds outside the supply system' 8.1.3 section C in the Exchequer and Audit Act Cap412 to facilitate overseas payments in foreign currency in respect of Government Imports and Pension payments through crown agents in United Kingdom. This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Treasury Clearance Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019.

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

203) With the conclusion of the winding up, the issues raised by the Auditor under Para 51 and 52 items (i) (ii) and (iii) will be addressed.

Committee Observations and Findings

204) The Committee observed and found that it had recommended in 2016/2017 that the Cabinet Secretary for the National Treasury should, within three (3) months of tabling and adoption of its report for the FY 2016/17, finalize the winding up of the Fund and submit the winding up report in line with the PFM Act and Regulation 209 of the PFM (National Government) Regulations 2015. The National Treasury has established a Taskforce on winding up of Dormant Funds. The Taskforce is yet to conclude the process; and the matter therefore remained unresolved.

52. Prior Years Matters

i) Accounts Receivable - Debtors

205) As was reported during the 2016/2017 and earlier years, the statement of assets and liabilities as at 30 June 2018 reflects an accounts receivable-debtors balance of Ksh.12,503,607,446 out of which Ksh.2,332,170,394 had not been analyzed. Consequently, the completeness and accuracy of the balance could not be ascertained. Further, the balance of Ksh. 12,503,607,446 has been outstanding for a long period of time. No progress has been made towards the recovery of the debts, which have been due for many years.

ii) Accounts Payable – Creditors

206) Similarly, as was reported during the previous year, the statement of assets and liabilities of the Treasury Main Clearance Fund Account as at 30 June 2018 continue to reflect an accounts payable - creditors balance of Ksh.12,490,478,941 which included amounts of Ksh.523,686 under PMG special account, Ksh.2,285,511,054 under advance deposits, Ksh.29,963,831 under advance deposits - Ministry of Information and Communications and Ksh.93,455 under JCF interest, all brought forward from 2016/2017 and earlier years. However, and as reported in the previous years, these amounts have not been analysed or supported with relevant documents.

207) Consequently, the completeness and accuracy of the creditors' balance of Ksh.12,490,478,941 as at 30 June 2018 could not be ascertained.

iii) Deficit Balance Brought Forward

208) In addition, and as was reported during the previous year, the statement of assets and liabilities as at 30 June 2018 also reflects a net financial position (closing fund balance) of Ksh.13,128,505 which constitute a deficit brought forward of Ksh.871,495 and fund balance brought forward of Ksh.14,000,000 that have not been reconciled. The balance as reflected in the statements of financial position without proper reconciliation cast doubt on the accuracy of the Treasury Main Clearance Fund statement.

Submission by the Accounting Officer

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

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

MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 have been submitted to The Cabinet Secretary National Treasury & Planning for approval and signature.

211) With the conclusion of the winding up, the issues raised by the Auditor under Para 51 and 52 items (i) (ii) and (iii) will be addressed.

Committee Observations and Findings

212) The Committee observed and found that:

1) It had recommended in the FY 2016/2017 report that the Cabinet Secretary for the National Treasury should within three (3) months of tabling and adoption of its report for the FY 2016/17, finalize the winding up of the Fund and submit the winding up report in line with the PFM Act and Regulation 209 of the PFM (National Government) Regulations 2015;
2) The National Treasury has established a Taskforce on winding up of Dormant Funds. The Taskforce is yet to conclude the process; and
3) The matter therefore remained unresolved.

213) The Committee observed that Paragraph 53 and 54 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

DONOR FUNDED PROJECTS

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

REPORT ON THE FINANCIAL STATEMENTS

214) **Unqualified Opinion**

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

56. Compliance with the Public Procurement and Assets Disposal Act 2015 –Publication of Contract Awards and Management (termination)

215) Examination of records maintained by the project management revealed that the project awarded several contracts valued at above Ksh.5,000,000 and did not issue a quarterly report on the contracts, contrary to the provisions of Section 138 (2) of the Public Procurement and Assets Disposal Act, 2015. However, the project management has indicated that the National Treasury and Planning is the procuring entity as prescribed in the Act and thus the entity that reports to Public Procurement Regulatory Authority. The

Project has solely relied on the National Treasury to submit the requisite reports to Public Procurement Regulatory Authority. It is the responsibility of the project management to be proactive to cause and ensure its operations complies with the existing regulations.

Submission by the Accounting Office

216)The Accounting Officer submitted that the National Treasury and Planning is the procuring entity as prescribed in the Act and thus the entity that reports to PPRA. The Project Implementation Unit, as currently set up, procures through the Head Supply Chain Management Services with the approval from the Accounting Officer including processing of both contract award and signing. Thus, the Project has relied on the National Treasury to submit the requisite reports to PPRA. PIU takes note that at the time the Auditors went to Supply Chain Management Services for the verification of the reporting requirements to PPRA, the reports were not available at the National Treasury. Subsequently, PIU embarked on preparing and submission of quarterly reports to the Head Supply Chain Management Services for consolidation for PPRA as per Circular No.1/2016.

Committee Observations and Findings

217)The Committee observed and found that:

1) It was necessary for the Accounting Officer for the National Treasury to help the PIU to build capacity in order to ensure that the project is self-reliant when it comes to procurement issues;
2) The Accounting Officer did not ensure that the project issues quarterly report on the contracts in line with the provisions of Section 138 (2) PPDA, 2015. It was the responsibility of the project management to be proactive to cause and ensure its operations are in compliance with the existing regulations; and
3) The explanation by the Accounting Officer was satisfactory and therefore the matter is resolved.

218)The Committee observed that Paragraph 57 to 60 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIP PROJECT - IDA CREDIT NO. 51570 KE

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

62. Compliance with the Public Procurement and Assets Disposal Act, 2015 – Publication of Contract Awards and Termination

219) Contrary to the provisions of Section 138 (2) of Public Procurement and Assets Disposal Act, 2015 the project management awarded Tender No. IFPPP/PPPU/W/NCB/02/2016-2017 and Tender No IFPPP/KNH/34/2016-2017 at a contract price of Ksh.97,000,000 and USD 997,716 (approximately Ksh.101 million) respectively all valued above Ksh.5,000,000 but did not report or issue a quarterly report. Similarly, the Project management terminated a procurement process on Tender No. IFPPP/PPPU/NCB/03/2017/2018 but failed to notify the Public Procurement Regulatory Authority as provided for in the law.

Submission by the Accounting Officer

220) The Accounting Officer submitted that The National Treasury and Planning is the procuring entity as prescribed in the Act and thus the entity that reports to PPRA. The Project Implementation Unit, as currently set up, procures through the Head Supply Chain Management Services with the approval from the Accounting Officer including processing of both contract award and signing. Thus, the Project has relied on the National Treasury to submit the requisite reports to PPRA. PIU takes note that at the time the Auditors went to Supply Chain Management Services for the verification of the reporting requirements to PPRA, the reports were not available at the National Treasury. Subsequently, PIU embarked on preparing and submission of quarterly reports to the Head Supply Chain Management Services for consolidation for PPRA as per Circular No.1/2016.

Committee Observations and Findings

221) The Committee observed and found that:

1) It was necessary for the Accounting Officer for the National Treasury to help the PIU to build capacity in order to ensure that the project is self-reliant when it comes to procurement issues;
2) The Accounting Officer did not ensure that the project issues quarterly report on the contracts in line with the provisions of Section 138 (2) PPDA, 2015. It was the responsibility of the project management to be proactive to cause and ensure its operations are in compliance with the existing regulations;
3) The Accounting Officer failed to ensure the project management reports the termination of procurement process for tender No: IFPPP/PPPU/NCB/03/2017/2018 and whether the termination led to incurring of fines and penalties; and
4) The explanation and submission by the Accounting Officer were satisfactory and therefore The matter be resolved.

222) <u>The Committee observed that Paragraph 63 on effectiveness of internal controls, risk management and governance was discussed and found as satisfactory.</u>

PUBLIC FINANCIAL MANAGEMENT REFORMS PROGRAM

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

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

Emphasis of Matter

65. Budget Control and Performance

223) The statement of comparison of budget and actual amount reveals that the project utilized an amount of Ksh.226,949,389 or about 17% of budgeted figure of Ksh.1,306,157,406, resulting to an under expenditure of Ksh.1,079,208,017 which represents 83% of the budgeted expenditure. Consequently, the Program could not have implemented all programmes and work plans fully as approved in the budget thus delaying provision of services to the citizens.

Submission by the Accounting Officer

224) The Accounting Officer submitted that The statement of comparison of budget and actual amount reveals that the project had a budget of KSh.1,306,157,406.00 while the actual expenditure amounted to KSh.226,949,388.65 resulting to an under expenditure of KSh.1,079,208,017.00 which represents 83% of the budgeted expenditure. The under expenditure was due the additional KSh.1billion under a new Programme GESDeck provided in Supplementary Estimates no.2 that was approved by Parliament in late June.

Committee Observations and Findings

225) The Committee observed and found that:

1) The under expenditure was due the additional KSh.1billion under a new Programme GESDeck provided in Supplementary Estimates no.2 that was approved by Parliament in late June.
2) The PFM Reform Strategy 2018-2023 does not include the National Assembly as one of the beneficiary institution in implementation of the programme;

Committee Recommendations

226) The Committee recommended that-

1) **The CS National Treasury should ensure that no supplementary budget estimates is submitted to Parliament later than two months before the close of the affected financial year;**
2) **Section 44 of the PFM Act, 2012 should be amended to provide that supplementary budget estimates is submitted to Parliament not later than two months (60) days before the close of the financial year; and**
3) **The CS for the National Treasury should, within three (3) months of tabling and adoptions of this report, initiate a review of the PFM Reform Programme to include the watchdog Committees of the National Assembly and Senate, the**

Office of the Auditor-General, the Controller of Budget in its capacity building programme component.

Other Matter

66. Human Capacity Shortfalls

227) It was noted that during the review of the PFMR Organizational Structure, the position of Communication Specialist, Human Resource Specialist (ICT administrator in acting capacity) and Legal Specialist remained vacant during the financial year under review. PFMR project calls for a well empowered and appropriately skilled Secretariat in all areas spelt out in its staff establishment and thus due to the human capacity shortfalls, the programme faces challenges in meeting its mandate, objectives and service delivery to the citizens. Officers holding positions in acting capacity may not have the necessary skills/competencies to achieve the desired goals of the project.

Submission by the Accounting Officer

228) The Accounting Officer submitted that The Public Financial Management Reforms Programme's organizational structure as espoused in the Public Financial Management Reform Strategy (2013-2018) gives its staff establishment at the PFMR Secretariat, which should empower with appropriate skilled personnel to ensure the programme's mandate and objectives are met. The auditor noted that during the review of the PFMR Organizational Structure, the following key positions remained vacant during the financial year under review:

i. Communication Specialist – vacant during the year under review
ii. HR Specialist - vacant during the year under review (ICT administrator in acting capacity)
iii. Legal Specialist - vacant during the year under audit

229) The Communication specialist position fell vacant during the year under audit and the programme was in the process of recruitment while the legal specialist position advertised but no applications received. On the other hand, the Human Resource Specialist recruited but the candidate did not take up the job. The Programme is following up on the process of recruitment to ensure substantive human resource gaps addressed. All the staff subsequently recruited.

Committee Observations and Findings

230) The Committee observed and found that:

1) The Programme was lacking competent staff such as ICT and legal specialist while other key positions were also vacant;
2) The explanations by the Accounting Officer and the submissions adequately addressed the issue and therefore The matter be resolved.

231) <u>The Committee observed that Paragraph 67 and 74 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

STUDY AND CAPACITY BUILDING FUND PROJECT (SCBP) NO. CKE 6015 01K AFD FRANCE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

75. Budgetary Control and Performance

232) The statement of budget and actual amount reveals that the Study and Capacity Building Fund project had budgeted receipts of Ksh.8,000,000 as proceeds from Domestic and Foreign Grants but only received Ksh.4,472,100 resulting to an unrealized receipt of Ksh.3,527,900 or 44.1% of the budgeted amounts. The management has indicated that, the Development Partner made Direct Payments for training in favour of staff amounting to Ksh.4,137,140 but the same was omitted in the financial statements. The financial statement therefore do not fully disclose the operation of the project during the year.

Submission by the Accounting Officer

233) The Accounting Officer submitted that the Statement of budget and actual amount reveals that Study and Capacity Building Fund Project had budgeted receipts of KSh.8,000,000.00 as proceeds from Domestic and Foreign Grants but only received KSh.4,472,100.00 resulting to an unrealized receipt of KSh.3,527,900.00 or 44.1% of the budgeted amounts. This under expenditure attributed to the fact that during the year under review, the Development Partner made Direct Payments for training in of staff amounting to KSh.4,137,140.00 but did not provide expenditure returns for capture as per the attached draw down requests to the Development Partner. This is 100% utilization.

Committee Observations and Findings

234) The Committee observed and found that:

1) The Accounting Officer did not provide the necessary documentation to support the explanations provided;
2) The Accounting Officer did not give reasons for the direct payments for training in favor of staff amounting to Ksh.4,137,140; and
3) The matter therefore remained unresolved.

Committee Recommendation

235) The Committee recommended that-

The Accounting Officer should, within three (3) months of tabling and adoption of this report, submit to the Auditor-General all the necessary supporting documents for audit review and reporting in the subsequent audit cycle.

76. Non-compliance with Procurement Laws and Procedures

236) During the year under review, the project made payments amounting to Ksh.2,565,000 in respect to an appointment of the technical assistant for contract dated 1st November

2017 for provision of consultancy services. A review of the procurement process revealed that the procurement was not done as per the provisions of the procurement laws and regulations. In particular, it was noted that the selection process was not competitive as required by section 124(1) and (2) of the Public Procurement and Assets Disposal act, 2015. It was further noted that the selection of the technical assistant was based on his prior experience in the Resource Mobilization Department based on the initial procurement process which had been done in 2012, over four years ago as opposed to commencing the procurement process as prescribed by the law upon the expiry of the prior contract. This situation may have compromised the quality of the consultancy services rendered due to lack of a competitive process thus impairing effective service delivery to the public.

Submission by the Accounting Officer

237)The Accounting Officer submitted that during the year under review, the project made payments amounting to Ksh.2,565,000.00 in respect to an appointment of the technical assistant for contract dated 1st November 2017 for provision of consultancy services. A review of the procurement process revealed that the procurement was not done as per the provisions of the procurement laws and regulations. In particular, it was noted that the selection process was not competitive as required by section 124(1) and (2) of the Public Procurement and Assets Disposal; Act, 2015. The selection of the technical assistant based on the initial procurement process, which had been done in 2012, over four years ago as opposed to commencing the procurement process as prescribed by the law upon the expiry of the consultancy services rendered due to lack of a competitive process thus impairing effective service delivery to the public. The Technical Assistant in question had been procured competitively to cover the period 18th June 2012 to 26th October 2017 under Aid Effectiveness Program. Before expiry of the running contract, a No Objection to renew the Contract was sought and approved by the Development Partner**.** Therefore, there was no need for new procurement process to be done.

Committee Observations and Finding

238)The Committee observed and found that:

1) The explanation and documents provided by the Accounting Officer were reviewed and verified by the Auditor General. However, the National Treasury has not fully explained why the procurement process was not commenced for the competitive filling of the position after expiry of the initial contract on 26th October 2017;
2) The Accounting Officer did not ensure that the recruitment process for the technical assistant was competitive as provided under Article 227 of the Constitution and Section 124(1) and (2) of the PPDA, 2015; and
3) The matter therefore remained unresolved.

Committee Recommendation

239)The Committee recommended that-

The Accounting Officer should in future ensure that there is foresight in management of technical assistant staff and a competitive recruitment process done well in advance before expiry of contracts.

240) The Committee observed that Paragraph 77 and 78 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

TECHNICAL SUPPORT PROGRAMME (TSP)

REPORT ON THE FINANCIAL STATEMENTS

241) **Unqualified Opinion**

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

Other Matter

80. Dormant Accounts

242) The Project maintains two local currency Accounts with bank balances of Ksh.1,136,902 and Ksh.359 respectively as at 30 June 2018. No deposits or withdrawals have been made for the last two financial years. The explanation given that the balance of Ksh.1,136,902 in one of the accounts was insufficient to be paid back to European Commission owing to ineligible expenditure was not supported by documentary evidence. Further, continued maintenance of the dormant accounts exposes the programme to risk of loss of funds.

Submission by the Accounting Officer

243) The Accounting Officer submitted that The Project maintains two local currency accounts with bank balances of Ksh.1,136,902.00 and Ksh.359.00 respectively as at 30th June 2018. No deposits or withdrawals have been made for the last two financial years. Technical Support Programme has two accounts at the Co-operative Bank, which are currently inactive for the following reasons:

i. Bank Account No.01141419783101 - KSh.1,136,942.15

244) As explained during the exit meeting, the balance reflected of Ksh.1,136,942.15 is part of an amount of Ksh.2,408,000.70 (Ksh.2,386,522.00 plus interest of KSh.21,478.70 as at 27.03.2017) that EU is seeking to be refunded as unspent balances and Ineligible Expenditure. The ineligible expenditure amount to Ksh.1,271,057.85 being that expenses on production of the Blue Book and Video Documentary whose expenditure incurred and supervised by the EU delegation. The National Treasury however in various communications to EU refuted the declaration of the expenditure as ineligible. Thus, since the demand note for the refund is Ksh.2,408,000.70 National Treasury is unable to finalize the transfer until this matter is settled between the two parties. In light of the above, the account will remain in operation and will be closed once the issues are resolved. There was correspondence between the EU and the National Treasury.

ii. Bank Account No.01141419783100 - KSh.359.05

245)The account will be closed after the issues in (i) above are resolved.

Committee Observations and Findings

246)The Committee observed and found that:

1) The explanations and documents given by the Accounting Officer have been reviewed and verified by the Auditor General. However, the matter still requires action from the part of the National Treasury and the donor to give the current status on the dormant accounts;
2) The duration the two accounts have remained dormant and the interest earned on them was not provided. The amount of Ksh.1.15million may be insignificant to the European Commission but a very significant amount to earn adequate interest in the banks; and
3) The matter therefore remained unresolved.

Committee Recommendation

247)The Committee recommended that-

The Accounting Officer should ensure that the issue is resolved between the National Treasury and EU.

81. Non-disclosure of Pending Bills

248)The statement of receipts and payments for the period ended 30 June 2018 reflects a figure of Ksh.48,832,274 under use of goods and services. Examination of records maintained by the management revealed that the expenditure relates to a single payment made to an international company. The payment voucher appears to have been processed in June 2017 during the previous financial year but the same had not been disclosed as a pending bill as at 30 June 2017. Failure to disclose the expenditure as pending bills implies that the financial statements for the year ended 30 June 2017 did not reflect fairly the operations of the project for the period then ended.

Submission by the Accounting Officer

249)The Accounting Officer submitted that the statement of receipts and payments for the period ended 30th June 2018 reflects a figure of Ksh.48,832,274.00 under use of goods and services. The payment relates to M/S Proman, whose Service Contract was for the period 1st March 2012 to 6th September, 2016, and the final invoice from the service provider was to be processed during the 2016/17 Financial Year. The last invoice was received in May 2017 but did not have supporting documents causing delay in payments until July 2017. It was an omission to declare the pending bill and this will not occur in future.

Committee Observations and Findings

250)The Committee observed and found that:

1) The last invoice was received in May 2017 but did not have supporting documents causing delay in payments until July 2017; and

2) The matter was an omission on the part of the National Treasury

Committee Recommendation

251) The Committee recommended that-

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

252) The Committee observed that Paragraph 53 to 104 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

CONSOLIDATED FUND SERVICES-SALARIES ALLOWANCES AND MISCELLANEOUS SERVICES

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

105. Accuracy of the financial statements and Records

253) A review of various balances reflected in the financial statements under review revealed that different records maintained by management reflects balances which do not tally/agree though relating to the same item as highlighted below:

(i) The statement of cash flows for the year ended 30 June 2018 shows comparative prior-year adjustments of Ksh.31,142,627 while statement of assets and liabilities for the same period shows a comparative prior year adjustment of Ksh.26,919,334 The difference of Ksh.4,223,293 has not been explained.

Submission by the Accounting Officer

254) The Accounting Officer submitted that the prior year adjustment was erroneously reflected in the note No. 11 of the financial statements as KSh.31,142,627/= instead of KSh.26, 919,334/=. The note has since been amended to reflect the correct figure and submitted to the auditor for verification.

Committee Observation and Findings

255) The Committee observed and found that it considered the matter in its report for the FY 2016/2017 and a recommendation made on the matter.

(ii) The statement of receipts and payments for the year ended 30 June 2018 reflect compensation of employee's expenditure of Ksh.2,685,214,290. The Trial Balance reflects a credit balance of Ksh.3,217,869,377 on the same item while the payroll and

payment vouchers show a total expenditure of Ksh.2,675,257,162. The differences between the three sets of records have not been reconciled.

Submission by the Accounting Officer

The statement of receipts and payments for the financial year ended 30th June 2018 reflects an amount of KSh.2,685,214,290 as compensation to employees different from credit balance of Ksh.3,217,869,377 on the same item while the payroll and payment vouchers show a total of Ksh.2,675,257,162. The three figures were reconciled and they all agree.

Committee Observations and Findings

256)The Committee observed and found that:

1) The Accounting Officer availed all required records for audit review and verifications to the satisfaction of the Auditor General; and
2) it had considered the matter in its report for the FY 2016/2017**.**

(iii) An analysis of the 'off payroll' payments reflect an expenditure of Ksh.256,036,689 while the physical vouchers availed and examined for the period indicates a total expenditure of Ksh.254,479,596. An expenditure of Ksh.1,557,093 could not therefore be vouched.

Submission from the Accounting Officer

The Accounting Officer submitted that at the time of submission of financial statements, the off-payroll expenditure amounting to Ksh.256,036,689.00 was supported with a detailed schedule. All the vouchers were availed for audit. The difference of Ksh.1,557,093.00 was due to an omission during audit examination and was reconciled.

Committee Observations and Findings

257)The Committee observed and found that:

1) The Accounting Officer failed to ensure timely reconciliation of the Consolidated Fund Services CFS- payroll, a key financial control instrument, thereby exposing public funds to rogue officers. This was a breach of Regulation 121 (3) of the PFM (National Government) Regulations, 2015 which requires Accounting Officer to certify the correctness of the payroll at least once every month;
2) The payment schedule showing the analysis of the difference of Ksh.1,557,093.00 was later availed for verification, and
3) The matter therefore remains unresolved.

Committee Recommendation

258)The Committee recommended that-

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

(iv) The expenditure on Teachers Service Commissioners as per the supporting schedules to the statement of receipts and payments for the year under consideration is Ksh.70,500,744 while the Ledger reflects a balance of Ksh.55,586,543 for the same period. The difference of Ksh.14,914,201 has not been explained.

Submission from the Accounting Officer

259) The Accounting Officer submitted that the expenditure on Teachers' Service Commission as reported in the supporting schedules for Receipts and Payments reflects the correct amount of Ksh.70,500,744.00. The expenditure of Ksh.55,586,543.00 in the IFMIS ledger relates to Independent Electoral Commission, which is erroneously described in IFMIS as Teacher's Service Commission.

Committee Observations and Findings

260) The Committee observed and found that:

1) The items description was mixed up and the correct description for the items were provided for audit review and verifications to the satisfaction of the Auditor General; and
2) It had considered the matter in its report for the FY 2016/2017**.**

(v) Examination of schedules supporting the Independent Electoral and Boundaries Commission expenditure in the statement of receipts and payments reflect a closing balance of Ksh.61,788,248 while the payroll reflects an amount of Ksh.51,679,730 The difference of Ksh.10,108,518 has not been explained. In addition, the amount has not been recorded in the Ledger and Trial Balance.

Submission from the Accounting Officer

261) The Accounting Officer submitted that the expenditure on Independent Electoral Commission of Ksh.61,788,248.00 is supported with payroll summaries and is captured in the Ledger and Trial Balance. The payroll summaries, the Ledger and Trial Balance all agree.

Committee Observations and Findings

262) The Committee observed and found that:

1) The Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The the items description were mixed up and that the correct description for the items were later provided for audit review and verifications to the satisfaction of the Auditor General; and
3) It had considered the matter in its report for the FY 2016/2017.

Committee Recommendation

263) The Committee recommended that-

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-

General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

(vi) Examination of payment vouchers revealed that an amount of Ksh.23,705,121 paid to two retired officers of the National Gender and Equality Commission (NGEC) was wrongly charged to National Police Service Commission (NPSC) expenditure item. No adjustment has been done to correct the anomaly.

Submission from the Accounting Officer

264)The Accounting Officer submitted that Expenditure of KSh.23,705,120.80 in respect of National Gender and Equality Commission, which had been charged, to National Police Service Commission was an error but has since been corrected.

Committee Observations and Findings

265)The Committee observed and found that:

1) The Accounting Officer failed to ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012;
2) The the correction of the financial statements, however, were later done in the revised ledger and provided for audit review and verifications to the satisfaction of the Auditor General; and
3) it had considered the matter in its report for the FY 2016/2017**.**

Committee Recommendation

266)The Committee recommended that-

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

(vii) The Ledger reflects expenditure for the National Cohesion and Integration Commission as Ksh.100,210,801 while the payment vouchers examined indicate a total of Ksh.97,017,530.10. The difference of Ksh.3,193,271 has not been explained/reconciled.

Submission by the Accounting Officer

267)The Accounting Officer submitted that the expenditure on NC&IC amounting to Ksh.100,210,801.20 as reported in the Ledger comprised of both Pay roll summary of Ksh.69,170,466.60 and off payroll payments of Ksh.31,040,334.10. Hence is no variance.

Committee Observations and Findings

268) The Committee observed and found that:

1) The Accounting Officer breach Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that accurate and complete financial statements and records for CFS is prepared & maintained in conformity with Regulation 97 on the basic structure of government accounts;
2) The Accounting Officer provided the analysis of all the vouchers totaling Ksh.100,210,801.20 for audit review and verification; and
3) It had considered the matter in its report for the FY 2016/2017**.**

Committee Recommendation

269) The Committee recommended that

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

(viii) The Trial Balance provided for audit include balances which have not been identified as either debits or credits. Whereas the Trial Balance represent a prima facie evidence on the accuracy in the recording of all the transactions affecting an entity, it has therefore been difficult to establish whether the two sides of the Trial Balance would balance as at 30 June 2018. Apparently, the accuracy of the financial statements' figures cannot therefore be ascertained without confirming the balancing of the Trial Balance. The financial statements prepared from unbalanced trial balance could result to grossly mistated financial statements and therefore may not reflect a true and fair view of the operations of the entity.

Submission by the Accounting Officer

270) The Accounting Officer submitted that the detailed Trial balance for Vote 0004 submitted for audit reflected values of transactions of payments and receipts.

Committee Observations and Findings

271) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012
2) The Accounting Officer belatedly provided the revised trial balance for audit review and verification; and
3) It had considered the matter in its report for the FY 2016/2017.

Committee Recommendation

272) The Committee recommended that-

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

106. Unsupported Prior Year Adjustments

273) The statement of assets and liabilities as at 30 June 2018 reflect a prior year adjustment of Ksh.18,420,097 (2017: Ksh.26,919,334 and 2016: Ksh.8,883,205,334) which has not been supported. As similarly been reported during the previous years' audit reports, the management has not explained the genesis of such adjustment or provided any records by way of journal vouchers or entries in the ledger. In absence of sufficient verifiable supporting documents and records, the authenticity of such adjustments in the financial statements cannot be ascertained.

Submission by the Accounting Officer

274) The Accounting Officer submitted as follows:

a. Unsupported prior year adjustments of Ksh.18,420,097

(i) The statement of Assets and Liabilities for the year ended 30^{th} June 2018 showed a prior year adjustment of Ksh.18,420,097 for 2017. The amount relates to erroneous direct deposits from the entities.

(ii) The direct deposits were reported as accounts payable in the FY 2016/2017. However, the amount was paid to exchequer in July 2018.

b. Unsupported prior year adjustments Ksh.26,919,334

275) Prior year adjustment of KSh.26,919,334 comprises of salary advance/overpayment recoveries and release of withheld salaries for Judges found unsuitable by the Judges and Magistrates vetting Board.

c. Unsupported prior year adjustments of Ksh.8,883,205,334

276) The prior year adjustment of Ksh.8,883,205,534 is the reversal of accumulated exchequer under issues that had been carried in the books and reported as receivables. The budget allocation expires at the end of June every year and since the accounts were prepared on cash basis, the same had to be adjusted.

Committee Observations and Findings

277) The Committee observed and found that:

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

2) The Accounting Officer belatedly provided the supported adjustments to the financial statements for audit review and verification and marked the matter resolved.

Committee Recommendation

278)The Committee recommended that-

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

107. Lack of Bank Reconciliation statements

279)The management only provided the bank reconciliation statement for the month of June 2018. The bank reconciliation statement provided for audit indicates receipts in the bank statement not reflected in the cashbook of Ksh.645,092, which related to periods between 8 January 2014 and 1 February 2018. In addition, the bank reconciliation statement indicates an amount of Ksh.48,454,895 as payments in the cashbook not shown in the bank statement. The amount of Ksh.48,454,895 includes Ksh.2,079,388 relating to periods between 30 June 2015 and 30 November 2017. The receipts and payments reflected in the reconciliation statement have been outstanding for long and ought to have been recorded in the cashbook/bank or reversed. Consequently, the accuracy of the bank balance of Ksh.158,864,022 reflected in the statement of assets and liabilities could not be ascertained.

Submission by the Accounting Officer

280)The Accounting Officer submitted that at the time of submission of Financial Statements, Bank Reconciliation statements for the period July 2017 to May, 2018 were not provided since they are summarized in the final reconciliation for the period ended 30th June, 2018. However, Bank reconciliation statements for the months July 2017 to May, 2018 were later provided. Receipts in the bank statements not in cashbook amounting to KSh.645,092.00 have been posted in the cashbook while payments in cashbook not in bank statement of KSh.2,021,008.75 have since been reversed from the cashbook leaving a balance of Ksh.58,379.25.

Committee Observations and Findings

281)The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.
2) The Accounting Officer provided the revised bank reconciliation statements for audit review and verification.

Committee Recommendation

282) The Committee recommended that-

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

108. Prior Year Audit Matters

108.1 Account Balances not Recorded in Ledger

283) The financial statements reflected balances as indicated below that were not captured in the ledger of the fund for the financial year 2016/2017.

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

284) Upon review of the current position, it was noted that management has not explained the source of the balances and therefore the figures in the financial statements in respect to the specific items could not be confirmed.

Submission by the Accounting Officer

285) The Accounting Officer submitted that by the time of audit, the exchequer releases of KSh.3,905,744,684, transfer from other government entities of KSh.362,830,853 and other receipts of KSh.18,420,097 had not been captured in the ledger but entries were later captured in the Ledger.

Committee Observations and Findings

286) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the PFM Act 2012
2) The Committee however observed that the Accounting Officer provided the account balances corrected in ledgers for audit review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendation

287) The Committee recommended that-

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

General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

108.2 Unsupported Restatement of balances

288)The statement of financial position as at 30th June 2016 had reflected balance brought forward under fund balance, compensation of employees and account receivables of Ksh.8,566,405,035.00, Ksh.2,416,693,457.00 and nil balance respectively which had been re-stated from Ksh.397,382,932.00, Ksh.2,418,352,317.00 and Ksh.8,663,621,032.00 respectively. The statement of financial position also shows clearance of outstanding item of Ksh.11,980,334.00 as reflected in the financial statements as at 30th June 2015.

Submission by the Accounting Officer

289)The Accounting Officer submitted that the amount of Ksh.8,566,405,035.00 was the exchequer under issues as at 30th June, 2014. The amount of Ksh.397,382,932.00 was the bank balance. The amount Ksh.8,663,621,032.00 is the exchequer under issues as at 30th June, 2015. This is because the budget allocation expires at the end of June each year and since the accounts were prepared on cash basis, the same had to be adjusted. The expenditure on compensation of employees amounting to KSh.2,418,352,317 erroneously included an amount of KSh.1,658,860 relating to re-credited salary, overpayment recoveries and returned cheques (RTGS). The error was corrected by re-stating the expenditure from KSh.2,418,352,317 to Ksh.2,416,693,457. The amount of Ksh.11,980,334 relates to reversal of an overstatement on payment voucher for PA No. 101684 which had been reported in the payment voucher as KSh.12,101,354.40 instead of actual payment KSh.121,020.90. The variation was due to application of a wrong exchange rate. The cashbook error was corrected. Matter resolved with auditor.

Committee Observations and Findings

290)The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.
2) The Accounting Officer belatedly provided the restatement that were adequately supported for audit review and verification; and
3) The matter be resolved

Committee Recommendation

291)The Committee recommended that:

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

108.3 Suspense Balance

292)The statement of Financial Assets and Liabilities reflects a balance of Ksh.4,456,673 referred to as a difference. The management have not explained what this difference is and therefore it is not possible to confirm the suspense account balances as presented in the financial statements. Further, the balance has been eliminated in the financial year 2017/2018. Management has not explained the basis of removal.

Submission by the Accounting Officer

293)The Accounting Officer submitted that the amounts represented salary overpayment recoveries and salary advances. Salary payments were accounted for in the payroll and hence adjustment was necessary to ensure the amounts paid in payroll have not been accounted for twice.

Committee Observations and Findings

294)The Committee observed and found that it discussed the issues in the Report of 2016/2017

Other Matter

109. Disclosure on budgetary Provisions

295)A review of the summary statement of Appropriation for Recurrent Vote shows a budget provision on Miscellaneous Services of Ksh.128,000,000 for the year ended 30 June 2018. A similar budget provision of Ksh.128,000,000 was made during the financial year 2016/2017. There has however been no expenditure incurred under the item during the two financial years. The management has not disclosed or explained the activities, which are anticipated to be funded under the Miscellaneous Services.

Submission by the Accounting Officer

296)The Accounting Officer submitted that CFS Vote R052 includes a budgetary provision to cater for miscellaneous services. The budget caters for the following services:

i. **Payment of employer contributions to National Social Security Fund – Ksh.125,000,000.00**

297)Government employees serving on non-pensionable terms contribute to NSSF while the Government is required to pay certain an amount as contributions for its employees to the fund and hence the budget has to be provided. It is however noted that in the recent past, there has been no claims from NSSF for employer contribution.

ii. **Loan Management Expenses Ksh.3,000,000.00**

298)Budget provision for miscellaneous services carters for guaranteed loan management expenses. However, it has also been noted that there has been no claim for loan management expenses in the recent past. Future budgets will be revised.

Committee Observations and Findings

299) The Committee observed and found that:

1) The explanation by the Accounting Officer on the failure to spend budgetary provision as required was persuasive; and
2) The matter be resolved.

Committee Recommendation

300) The Committee recommended that-

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

301) <u>The Committee observed that Paragraph 110 and 111 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

THE STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY THE KENYA GOVERNMENT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

112. Long Outstanding Balances

302) The statement of Outstanding Obligations Guaranteed by the Kenya Government as at 30 June 2018 reflects long outstanding contingent liabilities totaling Ksh.164,132,746 made up of Ksh.11,814,920 and Ksh.152,317,825 relating to Kenya Railways Corporation and Cereals and Sugar Finance Corporation, respectively. Clearance of these balances appears to be uncertain.

Submission by the Accounting Officer

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

304) Further, the National Treasury wrote vide letter reference No. DMD4/46 dated 30th November, 2018 seeking the corporation's concurrence to stop reporting these bonds in the financial statements forthwith. The corporation vides letter reference No. KF/FIN/NT/(13) dated 5th March, 2019 concurred with Treasury's proposal. The

National Treasury therefore stopped reporting the obligation guaranteed to Kenya Railways Corporation**.**

305)The obligation guaranteed by the Government in respect of borrowing by Cereals and Sugar Finance Corporation amounting to KSh.152,317,825 has remained outstanding pending conclusion of the winding up of the corporation. This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Cereals and Sugar Finance Corporation.

306)The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. With the conclusion of the winding up, the issues raised by the Auditor will be addressed.

Committee Observations and Findings

307)The Committee observed and found that:

1) The Taskforce on winding up of Dormant Funds had concluded its report with recommendations. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019;
2) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund;
3) With the conclusion of the winding up, the issues raised by the Auditor-General will be addressed; and
4) the matter could be marked as resolved.

308)<u>The Committee observed that Paragraph 113 and 114 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

KENYA LOCAL LOANS SUPPORT FUND

115. Un-supported balances

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

Submission by the Accounting Officer

310)The Accounting Officer submitted as follow:

i) **Bank Balance – Ksh.5,000,000.00**

311) This is the initial amount used to establish the fund. The amount is included in the account balance for The National Treasury Deposit account.

ii) **Investment at cost – Ksh.10,410,373.50**

312) The amount was invested in Kenya Stocks out of which Ksh.4,045,400.00 was redeemed in the Financial year 2018/2019 and redemption proceeds deposited in the National Treasury deposit account.

313) The balance of Ksh.6,365,300.00 was redeemed leaving a nil balance in the bank. Records of redemption have however not yet been traced to facilitate updating of investment records. The National Treasury requested Central Bank of Kenya vide letters reference No. DMD4/46 'L' dated 3rd May 2018 and 14th August, 2018 to provide redemption dates which is yet to be received.

iii) **Accrued Interest Ksh.71,595,406.00**

314) The balance reflected in the statement of financial assets under accrued interest is the amount of accrued interest. This is an old balance carried forward in the records and has remained the same from 30th June, 2006 to-date. The amount has no analysis or supporting documents. This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Rural Enterprise Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019.

315) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. With the conclusion of the winding up, the issues raised by the Auditor will be addressed.

Committee Observations and Findings

316) The Committee observed and found that:

1) The Taskforce on winding up of Dormant Funds had concluded its report with recommendations. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019;
2) The Cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund;
3) With the conclusion of the winding up, the issues raised by the Auditor-General will be addressed; and
4) The matter could be marked as resolved.

116. Failure to Redeem Stocks

317) In the audit reports for previous years, reference had been made to stocks valued at Ksh.10,430,700 which were past their redemption dates with the last redemption date for a sum of Ksh.17,400 having been made on 6 February 2010. Although the National Treasury had explained in the past that the stocks were redeemed some years ago but erroneously accounted for as revenue, records to confirm the erroneous accounting for receipts and subsequent correction in the books of account have not been made available for audit review.

Submission by the Accounting Officer

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

Investment at cost – KSh.10,410,373.50

319) The amount was invested in Kenya Stocks of which KSh.4,045,400.00 and was redeemed in the financial year 2018/2019 and redemption proceeds deposited in the National Treasury deposit account. The balance of KSh.6,365,300.00 appear to be outstanding in our books because the investment account was not adjusted at the time when the stocks were redeemed and fully paid. Records of redemption have however not yet been traced to facilitate updating of investment records. The National Treasury requested Central Bank of Kenya vide letters reference No. DMD4/46 'L' dated 3rd May 2018 and 14th August, 2018 to provide redemption dates which is yet to be received.

Committee Observations and Findings

320) The Committee observed and found that:

1) All the stocks have been redeemed. However, the said stocks have not been fully supported by any documentation;
2) The Accounting Officer breached section 68 (2) (k) of the PFM Act 2012 by failing to ensure that accurate and up to date financial records are prepared and maintained in conformity with Regulation 97 on the basic structure of government accounts; and
3) The matter therefore remained unresolved.

Committee Recommendation

321) The Committee recommended that-

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

117. Winding Up of the Fund

322) According to information available, the Kenya Local Loans Support Fund is in the process of being wound up in line with recommendations of the Public Accounts

Committee and further instructions issued by the National Treasury that all dormant funds are to be wound up. However, the process was not completed as at 30 June 2018.

Submission by the Accounting Officer

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

324) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 of 19th November 2019 he advised that draft revocation orders be prepared on the fund. With the conclusion of the winding up, the issues raised by the Auditor will be addressed.

Committee Observations and Findings

325) The Committee observed and found that:

1) The Taskforce on winding up of Dormant Funds had concluded its report with recommendations. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019;
2) The cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund;
3) With the conclusion of the winding up, the issues raised by the Auditor-General will be addressed; and
4) The matter could be marked as resolved.

Committee Recommendation

326) The Committee recommended that-

The Auditor-General should review the audit matter and report in the subsequent audit cycle.

118. Material Uncertainty Related to Going Concern/Sustainability of Services

327) The Fund had been recommended for winding up and the process was ongoing. The Fund will be wound after the Task Force responsible for the process has concluded the verification.

328) <u>The Committee observed that Paragraph 119 and 120 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

CONSOLIDATED FUND SERVICES - PUBLIC DEBT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

121. Accuracy of the financial statements

329) The financial statements' balances for the following items were found to be misstated after casting procedures were carried out. Details of the misstatement and the respective differences are as shown below:

	Financial Statement Balance Ksh.	**Confirmed/casted Balance Ksh.**	**Difference Ksh.**
Total receipts-Statement of receipts and payments	517,166,531,951.00	517,161,876,534.00	4,655,417.00
Total payments-Statement of receipts and payments	516,955,293,342.00	516,547,494,884.00	407,799,458.00
Actual total payments Statement of Appropriation	516,955,293,342.00	516,351,021,786.00	604,271,556.00
Cash and Cash equivalent at the beginning of the year - Cash flow statement	757,714,555.00	1,741,262,569.90	983,548,014.90

330) Further, a comparison of the statement of receipts and payments and the ledger for the period under review reflects different account balances in respect to the items as indicated below:

Item Description	**Financial Statement Balance Ksh.**	**Ledger Balance Ksh.**	**Variance Ksh.**
Interest Payments on Foreign Borrowings	84,357,487,111	84,725,600,971	368,113,860
Principal Repayment on Domestic Loans	111,700,845,296	294,836,376,343	183,135,531,047
CBK -Pre-1997 Loans	1,110,000,000	2,220,000,000	1,110,000,000
Repayment of Principal from Foreign Lending and On Lending	141,532,524,729	141,360,882,966	171,641,763
Exchequer Releases	517,161,876,534	-	517,161,876,534

331) The management has however not provided any analysis and supporting documents to support the adjustments. The accuracy of the balances reflected in the financial statements could therefore not be confirmed.

Submission by the Accounting Officer

332) At the time of transferring data from excel spreadsheets to word templates; there occurred miss-postings of some amounts, which resulted in errors observed. The anomaly was corrected through amendment of financial statements for CFS Public Debt. The amended statements were submitted for audit review. The amended statement addresses the differences observed between financial statements and confirmed /casted balance.

Committee Observations and Findings

333) The Committee observed and found that:

1) The Accounting Officer breach Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that accurate and complete financial statements and records for CFS is prepared and maintained in conformity with Regulation 97 on the basic structure of government accounts;
2) The figures in the Financial Statements and the ledger do not agree in regards to the second table; and
3) The matter therefore remained unresolved.

Committee Recommendation

334) The Committee recommended that-

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

122. Unsupported Balances

335) The Statement of Assets and Liabilities for the year ended 30 June 2018 reflects a prior year adjustment balance of Ksh.27,251,420,599 which has not been supported by any journal voucher or notes to the financial statement. Further, the general ledger under payment reflect a balance of Ksh.516,547,493,884 which includes a credit balance of Ksh.1,244,520,000 under Debut International SVRNG Bond (USD2.75 BN). The balance is not supported by any documentary evidence. Further, the Ledger reflects expenditure for new loans and new administrative costs of Ksh.7,919,757,971 and Ksh.59,894,313,393 respectively. The details of these payments have not been provided. Consequently, the accuracy of the balances could not be confirmed in the absence of the relevant supporting documents.

Submission by the Accounting Officer

336)The statement of Assets and Liabilities for the year ended 30th June 2018 reflects a prior year adjustment of Ksh.27,251,420,599 which was as a result of Payments made through CBK overdraft facility and included in the statement whereas financial statements were prepared under IPSAS cash. Raising of journals would be inappropriate where there is no cash movement. There was no exchequer provisioning, no actual expenditure and no posting in the cashbook or ledger that had been carried out.

Credit Balance of Ksh.1,244, 520,000.00 Charged under Debut International SVRNG Bond.

337)The amount of Ksh.1, 244,520,000 indicated as a receipt in the ledger relates to the reversal of the amount on PA No. 112755 being principal payment to Citi Bank that had erroneously been captured on the item for Debut International Sovereign Bond. The details of new loans and new administrative expenditure of Ksh.7,919,757,971.05 and Ksh.59,894,313,392.70. The analysis of expenditure on new administrative costs are supported with the schedule provided.

Committee Observations and Findings

338)The Committee observed and found that:

1) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that accurate and complete financial statements and records for CFS is prepared and maintained in conformity with Regulation 97 on the basic structure of government accounts;
2) The amount of Ksh.1, 244,520,000 has been adequately explained and supporting schedules provided for audit review and verification;
3) A prior year adjustment of Ksh.27,251,420,599 had not been adequately been explained;
4) An expenditure of Ksh.7,919,757,971.05 had been clarified up to Ksh7,777,060,595 leaving a balance of Ksh142,697,375.07 unexplained; and
5) The matter therefore remained unresolved.

Committee Recommendation

339)The Committee recommended that-

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

123. Outstanding Loan Balances

340)The summary statement of public debt reflects an outstanding loan balance of Ksh.4,801,416,851,482 as at 30 June 2018. The statement also shows opening public debt loan balance of Ksh.4,194,102,152,577 as at 1 July 2017 and an amount of cumulative debt repaid of Ksh.588,472,106,190 as at 30 June 2018. The statement does not however disclose amounts of disbursements and repayments during the period under review, making it difficult to confirm the correctness of the closing balance. In the absence of details on the loans, it has not been possible to confirm accuracy of the loan balances reported of Ksh.4,801,416,851,482.

Submission by the Accounting Officer

341) The total outstanding loan of Ksh.4,801,416,851,482.00 as at 30th June 2018 comprises of domestic loan amounting to Ksh.2,397,517,749,298 and external debt obligation of Ksh.2,403,899,102,184. The domestic debt constitutes outstanding Treasury Bills of Ksh.878,621,650,000, Treasury Bonds of Ksh.1,495,557,343,612 and Pre-1997 Government Overdraft loan of Ksh.23,338,755,686. The external debt is generated from electronic debt system where movements on disbursements and repayment are recorded**.**

Committee Observations and Findings

342) The Committee observed and found that:

1) The Auditor-General could not confirm accuracy of the loan balances due to non-disclosures by the National Treasury, as Country we do not know our accurate total outstanding loan balance (both domestic & foreign loans);
2) The total loan disbursement and repayment (both domestic & foreign loans) in the FY 2017/18 was not given;
3) The National Treasury was hesitant to fully operationalize the National Public Debt Management Office as provided in Section 62 of the PFM Act, 2012;
4) The Committee was unable to establish who is in charge of the Country's loan book. Section 63 (b) of the PFM Act, 201 requires that the Public Debt Management Office maintains a reliable debt data base for all loans taken by the national government, county governments and their entities including other loans guaranteed by the national government; and
5) The matter therefore remained unresolved.

Committee Recommendation

343) The Committee recommended that-

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

124. Failure to Prepare Monthly Bank Reconciliation Statements

344) The statement of assets and liabilities reflect bank balance of Ksh.968,953,164 as at 30 June 2018. The Bank Reconciliation Statements for the period under review have not been availed for audit and the balance of Ksh.968,953,164 is therefore not supported. In the absence of such records, the accuracy of the financial statement bank balance of Ksh.968,953,164 cannot be confirmed.

Other Matter

125. Outstanding Loan Balance

345) The Summary Statement of Consolidated Fund Services-Public Debt reflects an outstanding loan balance of Ksh.4,801,416,851,482 as at 30 June 2018. The outstanding loan balance increased by Ksh.607,314,698,905 from the previous year balance of Ksh.4,194,102,152,577. This represents 14.48% increase in the outstanding loans.

Submission by the Accounting Officer

346) The Accounting Officer submitted that the growth in public debt of KSh.607,314,698,905.00 from KSh.4,194,102,152,577 as at 30th June, 2017 to KSh.4,801,416,851,482 is attributed to disbursements on new loans acquired in the year under review, disbursements on existing loans and fluctuations in foreign currency exchange rates.

Committee Observations and Findings

347) The Committee observed and found that:

1) The issue was not a qualification matter.

348) <u>The Committee observed that Paragraph 126 and 127 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

CONSOLIDATED FUND SERVICES - PENSIONS AND GRATUITIES

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

128. Cash and Cash Equivalents

349) The statement of assets and liabilities reflect an overdrawn bank balance of Ksh.572,446,864 while the cashbook in support of the balance reflects a debit balance of Ksh.1,540,215,805 resulting in a variance of Ksh.2,112,662,670. The bank reconciliation statements provided for the financial year 2017/2018 had the following deficiencies:

i. Payments in the Cashbook but not in the Bank

350) The bank reconciliation statement reflects payments in the cashbook but not in the bank statement amounting to Ksh.6,851,074,383. The following inconsistencies were noted:

- Included in the balance are transactions dated July 2018 amounting to Ksh.2,930,968,073 which are outside the financial year and relate to the 2018/2019 financial year;
- Examination of the cashbook and the bank statements revealed payments amounting to Ksh.2,355,546 cleared through the bank account but continued to be carried as reconciling items;

- Further review of bank transactions revealed overpayments in excess of those recorded in the cashbook amounting to Ksh.5,352,286;
- Scrutiny of the cashbook revealed transactions totalling Ksh.169,677,839 not in the bank statement but excluded from the schedule of reconciling items under payments in the cashbook but not in the bank statement. Consequently, the payments in the cashbook not in the bank statement amount has been understated;
- Included in the reconciling item payments in the cashbook but not in the bank statement are long outstanding items relating to periods between 2014 and 2017 totalling to Ksh.37,661,799 which had not been resolved as of the financial statements date.

Submission by the Accounting Officer

351) The Accounting Officer submitted that the bank reconciliation statement reflects payments in the cashbook but not in the bank statement amounting to KSh.6,851,074,383.

352) Included in the balance are transactions dated July 2018 amounting to KSh.2,930,968,073 which relate to the financial year 2018/2019. Payments amounting to KSh.2,930, 968,073 relates to June, 2018 payroll and were correctly captured in the manual cashbook. The amount was subsequently transmitted by the bank on 3rd July, 2018, hence remaining as payment in the cashbook not in the bank statement.

Committee Observations and Findings

353) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within for review and verification as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
2) The amount of KSh.6,851,074,383 was transmitted by the Department by 30th June 2018 but effected by the bank on 3rd July 2018, hence the amount was charged in the correct period;
3) The reasons given by the Accounting Officer for not reconciling long outstanding items relating to the periods between 2007 and 2017 totaling to Ksh.123,524,492 were persuasive;
4) The Cabinet Secretary for the National Treasury, through a Kenya Gazette dated 5th August 2020 set the 1st January, 2021 as the commencement date for contributory Public Service Superannuation Scheme (PSSS) to provide retirement benefits to public servants. The expected fund income of over Ksh.3 billion monthly presents a huge opportunity for and heightened pension fraud risks. The Accounting Officer is required to put in place measures to protect workers' pensions considering the administrative and ethical challenges faced by the current Public Service Pension arrangements;
5) The Committee marked the matter as resolved.

Committee Recommendation

354)The Committee recommended that-

The Accounting Officer should ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within for review and verification as provided for in Article 229 (4)(h), and section 81(4)(a) of the PFM Act 2012.

ii. Receipts in the Bank Statement but not in Cashbook

355)Included in the balance for receipts in the bank statement but not in the cashbook figure are long outstanding items relating to the periods between 2007 and 2017 totalling to Ksh.123,524,492. Ideally, the balances ought to have been cleared but remained outstanding as at the financial statements date.

Submission by the Accounting Officer

356)The Accounting Officer submitted that the error was noted and has since been rectified in the bank reconciliation for December, 2018.

Committee Observations and Findings

357)The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.
2) The Accounting Officer belatedly provided the restatement showing the cleared transactions for audit review and verification; and
3) The Committee marked the matter as resolved

Committee Recommendation

358)The Committee recommended that-

The Accounting Officer should ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within for review and verification as provided for in Article 229 (4)(h), and section 81(4)(a) of the PFM Act 2012.

iii. Payments in Bank Statement but not in Cashbook

359)The bank statement reflects transactions whose amounts are in excess of those recorded in the cashbook. The excess payments total Ksh.11,877,823 for which no explanations have been rendered. Further, the reconciling items in the schedule of payments in the bank statement but not in cashbook include transactions amounting to Ksh.36,454,406 already recorded in the cashbook rendering them invalid. From the foregoing, the accuracy of the reported overdrawn bank balance of Ksh.572,446,864 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

360)The Accounting Officer submitted that the current PMIS system does not provide certain reports on the accounting module. Therefore, department maintains manual cashbook to record its day to day transactions which is more verifiable than the PMIS system cashbook. The challenge has been noted and will be corrected by the new system which is being procured.

Committee Observations and Findings

361)The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.
2) The Accounting Officer belatedly provided the corrected records with correct amounts recorded in manual cashbook for audit review and verification;
3) The Accounting Officer was addressing the problem by acquiring a new system. The system would digitize the department as it is with other departments where government operations had been digitized all other agencies were on IFMIS system; and
4) The Committee marked the matter as resolved

Committee Recommendation

362)The Committee recommended that-

The Accounting Officer should ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within for review and verification as provided for in Article 229 (4)(h), and section 81(4)(a) of the PFM Act 2012.

129. Military Gratuity Expenditure

363)Included in the amount under commuted pension (Lump sum) is military gratuity expenditure of Ksh.1,517,299,948, and of this expenditure, an amount of Ksh.107,965,176 was noted to have been recorded twice. In addition, a military gratuity expenditure amount of Ksh.38,352,507 had not been incorporated in the records thus understating the expenditure. In the circumstances, the accuracy of the military gratuity expenditure could not be confirmed.

Submission by the Accounting Officer

364)The Accounting Officer submitted as follows:

i) The statement of receipt and payment reflects payment of military gratuity of Ksh.1,517,965,175.80, which is overstated by Ksh.107,965,175.80. The overpayment error is due to system (PMIS) lacking configuration feature to capture a recovery from payment of military gratuity. The amount does not involve actual movement of cash
ii) The amount of Ksh.38,352,507.40 relates to calculated gross death gratuity and the amount is recorded and correctly captured in the manual cashbook and general ledger.

As earlier stated in 128 above this error will be addressed by the system re-engineering process.

Committee Observations and Findings

365) The Committee observed and found that:

1) The matter on military gratuity of Ksh.1,517,965,175.80 had been resolved;
2) The the amount of Ksh.38,352,507.40 was still outstanding, and
3) The matter therefore remained unresolved.

Committee Recommendation

366) The Committee recommended that:

The Accounting Officer should ensure that the amount of Ksh.38,352,507.40 relating to calculated gross death gratuity recorded and correctly captured in the manual cashbook and general ledger.

130. Irregular Payment of Pension

367) Also included in the payment of pensions expenditure of Ksh.63,170,121,740 are irregular payments found from the sample field inspection visits during the period of July to September 2018. These are detailed below:

a) During the period under review, monthly pension payroll amounting to Ksh.58,605,552 was indicated as having been paid to Asian and European officers. However, no individual officer files were made available to authenticate the payments.
b) Payments amounting to Ksh.27,378,721 were made to deceased persons. Of this amount, Ksh.12,580,674 relate to repeat payments to deceased persons bank accounts even after being returned by the receiving bank at first instance. Ideally, the pension department should suspend further payments into an account on return of the pension paid/sent.
c) Monthly pension amounting to Ksh.20,761,552 was paid out to pensioners and dependents who could not be traced at their indicated areas of residence as per department of pension's records and our physical verification with the government administration representatives.

From the foregoing, the accuracy of the reported expenditure on payment of pensions of 63,170,121,740 could not be confirmed.

Submission by the Accounting Officer

368) The Accounting Officer submitted as follows:

i. Monthly pension payroll amounting to Ksh.58,605,552

By the time of audit majority of the files were availed to the auditors. The remaining files have since been availed to the auditors for review.

ii. Payments amounting to Ksh.27,378,721 made to deceased persons.

369) The policy of the department to delete pensioners /defendants from the payroll upon production of the death certificate and the pensioners file. However, the department

conducted a pensioners/dependents head count between February and May 2019 whereby those who were confirmed to have died were deleted from the payroll. The department is planning to undertake a biometric registration of all pensioners and dependents to ensure that only eligible persons are in the payroll.

iii. Monthly pension amounting to Ksh.20,761,552 was paid out to pensioners and dependents who could not be traced

370) There is a possibility of pensioners moving/relocating from the address provided and therefore it may not be possible to delete beneficiaries from the payroll until one is sure that they no longer exist. However, the department conducted a pensioners/dependents head count between February and May 2019 whereby those who were confirmed to have died were deleted from the payroll. The department is planning to undertake a biometric registration of all pensioners and defendants to ensure that only eligible persons are in the payroll.

Committee Observations and Findings

371) The Committee observed and found that:

1) No individual officer files were availed to authenticate pension payment of Ksh.58.6 million to Asian and European Officers, a pointer to opportunistic pension fraud incident;
2) The repeat payment of Ksh.12.58 million to deceased persons bank accounts was not intentional and that there was no Officer at the Department perpetuating identity fraud for personal benefit;
3) The Department made payments totaling Ksh.20.76 million to pensioners and dependents who could not be traced at their indicated areas of residence;
4) The National Treasury was in the process of undertaking a biometric registration of all pensioners and dependents to ensure that only eligible pensioners were in the payroll;
5) There was need to investigate the pension payment of Asian and European Officers; and
6) The matter therefore remained unresolved.

Committee Recommendations

372) The Committee recommended that-

1) **The Accounting Officer should review the operations of the Pensions by launching biometric registration of all pensioners within six months upon tabling and adoption of this report.**
2) **The Accounting Officer should operationalize the pension system.**

131. Unsupported Expenditure

373) Also included in the pensions expenditure is an amount of Ksh.20,294,340 paid to Crown Agents, because of pre and post-independence pensioners residing in the United Kingdom. The expenditure has not been adequately supported by way of payrolls detailing the said beneficiaries. Consequently, the accuracy of the expenditures could not be confirmed.

Submission by the Accounting Officer

374) The Accounting Officer submitted that the Department agreed with Crown Agent in United Kingdom to manage the accounts of pre and post-independence pensioners residing in the United Kingdom on its behalf. The Department relies on monthly reports from Crown Agents to make monthly payment schedules and payroll which is available for audit review. A sample of the payroll and monthly returns for the same has been attached. Every year the department receives copies of life certificates to confirm that the beneficiaries are alive. Field inspection is to be conducted on this matter.

Committee Observations and Findings

375) The Committee observed and found that:

1) The details of the pensioners and payment schedules, had been availed but there were no payrolls;
2) The Accounting Officer had put in place measures to ensure the payroll was in place for proper process of future payments to pensioners; and
3) The matter therefore remained unresolved.

Committee Recommendation

376) The Committee recommended that-

The Accounting Officer should review the operations of the pensions by launching biometric registration of all pensioners.

132. Returned Pensions

377) The statement of assets and liabilities indicates accounts payables of Ksh.4,061,252,617 - (2017 - Ksh.3,243,545,204). Analysis of the account indicates that Ksh.1,189,930,008 relates to payments returned during the year while Ksh.372,222,595 was repaid to pensioners on account of 2017 returns. Consequently, the net movement for the year is Ksh.817,707,413. The Management has not been able to support the balance of Ksh.4,061,252,617 by way of detailed listing per individual pensioners.

Submission by the Accounting Officer

378) The Accounting Officer submitted that this figure is a built up net off movement accumulation since the inception of the CFS account. The figure is supported by schedules of the returns from the banks, which indicate pensioner number, the name and the amount. The returns from the banks are filed per bank in box files which are available in our office for audit. The auditors have also been issued with system rights with which they can access these reports.

Committee Observations and Findings

379) The Committee observed and found that:

1) The Committee observed that the Accounting Officer failed to provide a comprehensive schedule clearly supporting the payables balance in the financial statement and the system did not have a comprehensive schedule to support the balance; and
2) The matter therefore remains unresolved.

Committee Recommendation

380)The Committee recommended that-

1) **The Accounting Officer should review the operations of the Pensions by launching biometric registration of all pensioners;**
2) **The Accounting Officer should within three (3) months of tabling and adoption of this report avail the a comprehensive schedule clearly supporting the payables balance in the financial statement**.

Other Matter

133. Prior Years' Matters

133.1 Irregular Payment of Pension

381)The statements of receipts and payments for the financial year 2016/2017 reflected pension expenditure of Ksh.59,757,695,779. Included in the expenditure was civil pension of Ksh.22,901,547,520. An amount of Ksh.1,306,966,519 was paid to retired teachers during the financial year 2016/2017 without being properly supported with documents such as the last pay slips as required by Pension Act 189, Section 10. The Management did not explain the basis of calculating the pensions. Therefore, the accuracy of payment of civil pension amount of Ksh.22,901,547,520 could not be confirmed.

Submission by the Accounting Officer

382)The Accounting Officer submitted that included in the expenditure of civil pension of KSh.22,901,547,520 as indicated in note 8.2 to the financial statements is an amount of KSh.1,306,966,518 paid as revised claims to teachers who retired between July 1997 to July 2001 who had filed a court case to be paid for salary revision and the same was awarded by the court. Since those teachers had retired earlier the issue of current pay slips did not arise as it would have been to new retirees. Courts ought to follow the established law such as the Acts. The calculation of their revised pensions was based on the entire salary increment of 1997 agreement, revision circular and salary progression done by the employer -TSC and the same was awarded by the court. The payment is in public domain.

Committee Observations and Findings

383)The Committee observed and found that the Accounting Officer confirmed that the payments were made as per the court ruling and the Department had to abide and therefore marked the matter resolved.

133.2 Military Gratuity

384)Also, included in the pension expenditure figure is military gratuity of Ksh.4,562,597,165, which had an overpayment of Ksh.86,584,111. Management is yet to effect recovery for the overpayment.

Submission by the Accounting Officer

385)The Accounting Officer submitted that the statement of receipts and payment reflects payment of military gratuity of Ksh.4,562,597,165, which includes an overpayment of Ksh.86,584,111. The overpayment was noted and it is due to a system error as explained no. 129 above. The amounts do not involve actual movement of cash. This anomaly is being addressed by the ongoing re-engineering exercise.

Committee Observations and Findings

386)The Committee observed and found that:

1) the National Treasury had not carried out a system upgrade and therefore the error was likely to recur;
2) the Accounting Officer is addressing the problem by acquiring a new system. The system will digitize the department as it is with other departments where government operations have been digitized all other agencies are on IFMIS system; and
3) The matter therefore remains unresolved.

Committee Recommendation

387)The Committee recommended that-

The Accounting Officer should within three (3) months of tabling and adoption of this report, ensure that s system upgrade is undertaken and the overpayment of Ksh.86,584,111 is corrected and financial statements resubmitted to the Auditor-General for audit and reporting in the subsequent audit cycle.

133.3 Unsupported Expenditure

388)The Department paid pension totaling Ksh.58,656,973 to Asian and European Pensioners who retired due to Africanization of public sector after independence in 1963. Their life certificates were not availed to confirm that the pensioners are still alive as required by the pension department internal controls. The propriety of the expenditures could not, therefore, be confirmed.

Submission by the Accounting Officer

389)The Accounting Officer submitted that included in the ordinary pensions of KSh.34,074, 626, 471 as supported by note 8.2 is an amount of KSh.58,656,973 paid to Asian and European pensioners who are in our main payroll. Deletion from the payroll must always be supported by death certificate. Please note that there is no provision of life certificates in pensions act in Kenya and not in the pension policies. The Department conducted payroll cleansing exercise between February and May 2019 in order ascertain the correct number of live pensioners and is in process of implementing the Findings whereby those found to have died or non- responsive shall be deleted from the payroll. However, the department will introduce biometric identification of pensioners in re-engineering of the PMIS.

Committee Observation and Findings

390)The Committee observed and found that this matter was considered by the PAC in it's report for the FY 2016/2017 and a recommendation duly made.

133.4 Failure to Surrender Unspent Allocation

391) The Statement of Receipts and Payments for the financial year 2016/2017 reflected a deficit of Ksh.1,270,093,379 for the year ended 30 June 2017. The excess expenditure over the receipts for the year was funded from unspent balance from the financial year 2015/2016. This is contrary to the provisions of Section 45 of the Public Finance Management Act 2012 that requires the department to surrender the unspent pension as of year-end to the Exchequer Account.

Submission by the Accounting Officer

392) The Accounting Officer submitted that the expenditure of KSh.1,270,093,379 was funded from returned pension not from exchequer. The returned pension is held in the re-credited account pending further clarification from pensioners to reclaim their returned pension to be paid after reactivating their bank account details.

Committee Observations and Findings

393) The Committee observed and found that:

1) the Accounting Officer pays pensioners' claims from main account where returned pension is held but the funds should be kept in a separate deposit account;
2) a separate deposit account has not been opened for this purpose; and
3) The matter therefore remains unresolved.

Committee Recommendation

394) The Committee recommended that-

The Accounting Officer should, within three (3) months of tabling and adoption of this report, ensure that a separate account opened for the returned pensions.

133.5 Un-supported Clearance of Prior Year Adjustment

395) The statement of financial assets for the year 2015/2016 reflected a prior year adjustment of Ksh.297,889,272 under the comparative balances for the financial year 2014/2015. The amount was cleared during the period 2015/2016 but the transaction was neither supported nor explained. The financial statement may not have presented fairly the financial position as at 30 June 2016.

Submission by the Accounting Officer

396) The Accounting Officer submitted that the amount of Ksh.297,889,272 under the comparative balances for the Financial Year 2014/2015, was erroneously cleared during the period 2015/2016. The figures have since been reinstated in the books of accounts in financial year 2017/2018.

Committee Observations and Findings

397) The Committee observed and found that the Accounting Officer made adjustments and confirmed that the reinstatement of prior years were done and therefore the Committee marked the matter as resolved.

398) The Committee observed that Paragraph 134 and 135 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

THE RECEIVER OF REVENUE- PENSIONS DEPARTMENT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

136. Misstatement of Revenue Balance

399) During the year under review, the statement of receipts and transfers reflects total revenue collected and transferred to the Exchequer as Ksh.308,019,086**.** The bank statements on the other hand shows the total receipts and transfer thereof to the Exchequer of Ksh.309,398,233 resulting to unexplained difference of KSh.1,379,147. The statement of revenue is therefore misstated and does not reflect a true and fair view of its operations.

Submission by the Accounting Officer

400) The Accounting Officer submitted that the statement of receipts and transfer reflects total revenue collected and transferred to the Exchequer as Ksh.308,019,086 and while the bank statements on the other hand shows Ksh.309,398,233. The difference of KSh.1,379,147 was noted and the financial statement was revised and submitted to the auditor for review.

Committee Observations and Findings

401) The Committee observed that the Accounting Officer confirmed that the Misstatement of Revenue Balance of Ksh.1,379,147 in the financial statement was revised, reviewed and verified by the Auditor General and therefore the Committee marked the matter resolved.

137. Previous Audit Issues – Revenue Balances

402) In the audit of the previous year, reference was made where various classes of revenue reflected in the statement of revenue and the cashbook showed different amounts as analyzed below.

Revenue Class	**Notes to the Revenue Statement**	**Electronic Cashbook Balance**
31% Contributions	356,715,202.00	0
2% WCPS	0	65,265,348.10
Abatement	0	49,072,014.90
Cap Deductions	0	2,403,645.05

403) Consequently, the accuracy of the balances reflected in the statement of revenue could not be ascertained. No reconciliation has been done to address the differences.

Submission by the Accounting Officer

404) The Accounting Officer submitted that by the time of audit, the classification of revenue was in complete; however, the adjustment and reconciliation has since been done.

Committee Observation

405) The Committee observed that the matter was considered by the PAC in its report for the FY 2016/2017.

406) The Committee observed that Paragraph 138 to 139 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

PROVIDENT FUND ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

140. Trial balance and Ledger balances

407) Included in the Trial Balance and the Ledger Balance, as at 30 June 2018 are items whose balances have been omitted from the financial statement. The National Treasury Management have not explained what the items represent nor provided analysis to support their omission from the financial statements. The details of the items, their respective accounts and account balances are as indicated below:

Account	Description	**Amount**
4-867-0903-7310224	Interest on Investments Provident Fund	739,438,030.80Cr
4-867-0903-7310227	Profit/Loss on realization of Investments	7,163,992.05Cr
4-867-0903-7310230	Interest credit to Deposit	113,114.00Dr
4-867-0903-7310231	Accumulative Income & Expenditure Account	1,372,274.45Cr
4-867-0903-7310235	Recovery of Interest due from Kenya Government	1,448,783.00Cr
4-867-0903-7310236	Annual Account	883,161.85Cr
4-867-0903-7310237	Bonus paid to Depositors	1,296,168.10Cr
4-867-0903-7310238	Annuity Payment (Charles Rombo Agriculture)	50,695.00Dr
4-867-0903-7310237	Bonus paid to Depositors	1,296,168.10Dr

408) In absence of any reconciliation and explanation, the financial statements may not therefore present a true and fair view of the financial position.

Submission by the Accounting Officer

409) The Accounting Officer submitted that the PMIS system is designed and configured in a way that expenditures and incomes in the same line item do not knock off but instead accumulate in the ledger since inception of the fund. The items brought forward as Income/expenditures is attributed to the foregoing system designation and configuration which will be addressed by the PMIS system re-engineering process. Therefore, these brought forward income/expenditure figures don’t relate to financial year 2017/2018 as shown in the Ledger but are previous years` accumulative expenditures incurred by the Fund. On the other hand, these historical figures are being addressed by the Old Balances Taskforce Committee.

Committee Observations and Findings

410) The Committee observed and found thathe explanation given by the Accounting Officer with regard to the Trial Balance and the Ledger Balance as at 30th June, 2018 was persuasive and therefore the Committee marked the matter as resolved.

141. Other Receivable

411) The statement of assets and liabilities reflects other receivables balance of KSh.9,972,598/-which include a cash deposit balance of KSh.3,796,226 held in the insolvent Cereal and Sugar Corporation. The Corporation had been recommended for winding-up but the process is yet to be completed. Therefore, the realization of the amount of KSh.3,796,226/-deposited in the Corporation cannot be ascertained and the balances of other receivables of KSh.9,972,372/59 may be grossly misstated. Further, included in Other Receivables is Ksh.6,176,372 in respect of ordinary shares due from KP & LC that is not reflected in the ledger. Therefore, the source and accuracy of the balance could not be ascertained.

Submission by the Accounting Officer

412) The Accounting Officer submitted as follows:

(i) The statement of financial assets and liabilities reflects other receivable balance of KSh.3,796,226.00 representing cash deposit held in the insolvent Cereals and Sugar Finance Corporation which is dormant and in the process of being wound-up. The Department accounts is prepared based on going concern and therefore until the liquidation is concluded the amount of KSh.3,796,226 has to be included receivable figure in the statement of assets and liabilities.

(ii) The National Treasury formed a taskforce on the winding up of Dormant Funds and address issues of old balances appearing in Ministries’ books of Accounts with a view of clearing the same.

(iii) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General replied vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019. The Attorney General advised on the way forward on winding up of the Fund and The National Treasury is implementing the recommendations. The revocation order 2020 have been submitted to The Cabinet Secretary National Treasury & Planning for approval and signature.

(iv) With the conclusion of the winding up, the issues raised by the Auditor under items (i) (ii) and (iii) will be addressed.

(v) Other Receivables being dividends from ordinary shares amounting to KSh.6,176,371.50 have been recorded in the manual cashbook and properly presented the statement of assets and liabilities but the same failed to be captured into the ledger due to configuration of PMIS system format. The issue has been noted and the same will be addressed by the system on going re-engineering process.

Committee Observations and Findings

413) The Committee observed and found that the explanation given by the Accounting Officer with regard to other receivables was persuasive and therefore the Committee marked the matter resolved.

142. Other pending payables

414) The statement of assets and liabilities reflect KSh.9,715,111 as other pending payable brought forward made up of KSh.9,622,726 and KSh.92,385 relating to surplus cash remitted by Department and interest due to National Government entities respectively. The balances have repeatedly been brought forward from previous years but without any supporting analysis. In the absence of analyses, it has not been possible to confirm the accuracy, validity and completeness of these balances.

Submission by the Accounting Officer

415) The Accounting Officer submitted that the statement of Assets and Liabilities reflects pending payables balances of KSh.9,715,111.00 comprising of Surplus cash remitted by Departments of KSh.9,622,726.00 and Interest due from the Government of KSh.92,385.00. These balances were brought forward from previous years and it has been a challenge to analyze them further since they are historical in nature.

416) The National Treasury formed a taskforce on the winding up of Dormant Funds and address issues of old balances appearing in Ministries' books of Accounts with a view of clearing the same. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General replied vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019. The Attorney General advised on the way forward on winding up of the Fund and The National Treasury is implementing the recommendations. The revocation order 2020 have been submitted to The Cabinet Secretary National Treasury & Planning for approval and signature.

417) With the conclusion of the winding up, the issues raised by the Auditor under items (i) (ii) and (iii) would be addressed.

Committee Observations and Findings

418) The Committee observed and found that the explanation given by the Accounting Officer with regard to other pending payables was persuasive and there the Committee marked the matter resolved.

Other Matters

143. Idle Resources

419) For some time now, the fund has carried out minimal operations where only dividends from investment in Kenya Power and Lighting Company Limited are recorded. The fund continues to accumulate funds, which now standing at KSh.759,472,236 as at 30 June 2018 and nothing is invested even with Government bonds, and therefore no interest is earned. The fund administrator has not undertaken any other activities for which the fund was established. The amount has been held idle at Central Bank of Kenya but could have been invested in income generating ventures. Alternatively, if the mandate of the fund is found to have ceased or lapsed, the same ought to be wound up and the assets reverted to the Government.

Submission by the Accounting Officer

420) The Accounting Officer submitted that the National Treasury wrote to central Bank of Keya seeking advice on how to invest vide letter ref. No.EPN/167/025 Vol.XI/34 dated 14th March 2016 and the Central Bank advised vide letter ref. No. EPN/167/025 Vol.XI/34 dated 13th January, 2017 the requirements and conditions to be met before investing. Two of the conditions were that the Fund should have Fund Manager and Board of Trustees. The Fund has no remaining beneficiaries and it would not be viable to engage a Fund manager and Board of trustees. The fund was in process of being wound up.

Committee Observations and Findings

421) The Committee observed and found that the explanation given by the Accounting Officer with regard to other matter and in particular idle resources was persuasive and therefore the Committee marked the matter as resolved.

422) The Committee observed that Paragraph 144 and 145 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

EUROPEAN WIDOWS AND ORPHANS PENSION FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

144. Unsupported Investments

423) The statement of assets and liabilities as at 30 June 2018 reflects a receivables balance of Ksh.21,221,715 which includes an investment balance of Ksh.16,900,000 representing

cash deposits that was made to the Cereals and Sugar Finance Corporation. The investment balance was not supported by any verifiable documents such as deposit certificates as required. Further, the Corporation in question is technically insolvent and the cabinet approved its winding up vide memorandum dated 13 September 2007 with recommendation that assets and liabilities be transferred to The National Treasury.

424) In the circumstances, the investments may not be recovered and the funds' assets could be overstated.

Submission by the Accounting Officer

425) The Accounting Officer submitted that the statement of assets and liabilities reflects a receivable balance of KSh.16,900,00.00 relating to cash deposits held in the Cereals and sugar Finance Corporation (CSFC), which is technically insolvent. The liquidation and winding up process of the corporation is on-going and the recoverability of the amount will be determined once he process is over. Please note that the financial statements of CSFC to enable us wind up the fund have been prepared and submitted for audit. The deposit certificate is hereby attached for verification.

426) The National Treasury formed a taskforce on the winding up of Dormant Funds and address issues of old balances appearing in Ministries' books of Accounts with a view of clearing the same. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General replied vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019. The Attorney General advised on the way forward on winding up of the Fund and The National Treasury is implementing the recommendations. The revocation order 2020 have been submitted to The Cabinet Secretary National Treasury & Planning for approval and signature.

427) With the conclusion of the winding up, the issues raised by the Auditor under items (i) (ii) and (iii) would be addressed.

Committee Observations and Findings

428) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to European Widows and Orphans Pension Fund and in particular the unsupported investments was persuasive;
2) There was immense improvements made on the winding up of the fund; and
3) The Committee marked the matter as resolved.

145. Bank Reconciliation

429) The statement of assets and liabilities as at 30th June 2018 reflects a cash balance of Ksh.175,505,994. A review of the cashbook reflects a balance of Ksh.168,552,393 at the same date resulting to an un-explained difference of Ksh.6,953,601. The bank statements and bank certificates on the other hand indicates a balance of

Ksh.172,853,169. The discrepancies between the three sets of records have not been reconciled.

Submission by the Accounting Officer

430) The Accounting Officer submitted that by the time of audit, the three sets of records had not been reconciled. The financial statement for the year under review has been revised and the bank reconciliation has been updated with the correct amount of cash and cash equivalents shown as KSh.172,853,169. The reconciled records have been given to auditor for review.

Committee Observations and Findings

431) The Committee observed and found that the explanation given by the Accounting Officer with regard to bank reconciliations was persuasive and therefore the it marked the matter as resolved.

146. Adjustment of prior year Investment Balance

432) During the year under review, the Fund's management made an adjustment by crediting the investment account balance brought forward from previous years of Ksh.25,516,932 to Ksh.21,608,573 by Ksh.3,908,360. The adjustment was effected through debiting the Capital account balance with a similar margin from Ksh.125,506,423 to Ksh.121,598,063. The two accounts were adjusted in 2011/2012 financial year with an amount of Ksh.17,364,820 in recognition of bonus shares which had been omitted. The adjustments to capital account have not been explained therefore rendering the present adjustment invalid.

Submission by the Accounting Officer

433) The Accounting Officer submitted that the PMIS system is not fully developed to capture certain prior year adjustments, receivables and produce financial reports and the same is being addressed through procurement of a new system, which is in process. Whereby missing item codes in the system will be included. The adjustment of capital account by KSh.3,908,360.00 was effected through debiting the capital account balance and crediting the investment account balance brought forward with a similar amount. The two accounts were adjusted in 2011/2012 financial year with an amount of KSh.17,364,820 in recognition of bonus shares. The adjusted records have been submitted to the auditor for review.

Committee Observations and Findings

434) The Committee observed and found that the explanation given by the Accounting Officer with regard to adjustment of prior year investment balance was persuasive and therefore the matter could be marked as resolved.

147. Balances Omitted from the Ledger

435) The statement of receipts and payments shows dividend income receivable of Ksh.4,321,715. The amount has however not been recorded in the General Ledger. The balances in the financial statements should be derived from the Ledger and Trial

Balance. The receivable balance in the financial statement is therefore not supported by any primary books of accounts.

Submission by the Accounting Officer

436) The Accounting Officer submitted that the PMIS system that is in use is not fully developed to capture certain receivables and produce financial reports and the same will be addressed by the new system being procured.

Committee Observations and Findings

437) The Committee observed and found that the explanation given by the Accounting Officer with regard to balances omitted from the ledger was persuasive and therefore the matter could be marked as resolved.

148. Statement of Comparison between the Budget and Actual Amounts

438) The management did not include for audit, the Statement of Comparison between Budget and Actual amounts in the financial statements as prescribed by the Public Sector Accounting Standards Board and as exemplified by the Treasury Circular No. AG 4/16/1/VOL.IV/76 of 13 July 2017. As a result, it has not been possible to evaluate or appraise the performance of the fund during the year under review.

Submission by the Accounting Officer

439) The Accounting Officer submitted that it was true that no budget was provided for the fund but this omission will be addressed in the Financial Year 2020/2021.

Committee Observation and Finding

440) The Committee observed and found that the Accounting Officer agreed that no budget was provided for the fund but this omission would be addressed in the Financial Year 2020/2021

Other Matter

149. Credit Risk in the Financial Statements

441) The financial statements include a note on the credit risk of the entity, which however, does not include all relevant information about the entities debtors. The receivables from non-exchange transactions shows nil balance while the statement of assets and liabilities indicates receivables amounting to Ksh.21,221,715. Included in the balance are doubtful receivables from Cereals and Sugar Finance Corporation of Ksh.16,900,000.

Submission by the Accounting Officer

442) The Accounting Officer submitted that by the time of audit, the note on the credit risk section did not include all the relevant information. The financial statement was revised and the correct position of receivables shown. The revised statement has been given to auditors for review.

Committee Observations and Findings

443)The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to balances omitted from the ledger was persuasive; and
2) The financial statement revised and the correct position of receivables shown and revised statement given to auditors for review.

Committee Recommendations

444)The Committee recommended that:

1) **The Accounting Officer should ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within for review and verification as provided for in Article 229 (4)(h), and section 81(4)(a) of the PFM Act 2012; and**
2) **The Auditor-General should review the revised financial statements and report in the subsequent audit cycle.**

445)<u>The Committee observed that Paragraph 152 and 153 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

ASIAN OFFICERS FAMILY PENSION FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

154. Previous Year's Report

i) Failure to Provide Records for Verification

446)During the period under review, the Pension Department made payments amounting to Ksh.1,600,842 as pensions to pensioners/dependents under the Fund. Included in the schedule are two payments totaling to Ksh.84,000 paid to two pensioners with reference pension numbers BPN/PB 589 & BPN/PB 1688 but whose pension files were not availed for audit review.

Submission by the Accounting Officer

447)The Accounting Officer submitted that the auditors requested for 38 files which initially 36 had been availed leaving a balance of 2. However, by December 2018 the remaining (2 files BPN/PB 589 and BPN/PB 1688) were found and submitted to the auditor.

Committee Observations and Findings

448)The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to failure to provide records for verification was persuasive; and
2) all required documents were submitted, reviewed and verified by the Auditor General.

Committee Recommendation

449) The Committee recommended that:

The Auditor-General should review the documents and report in the subsequent audit cycle.

ii) Irregular Payment of Pension

450) As was reported during the previous years, the Department had made pension payments amounting to Ksh.519,800 to two beneficiaries between the year 2007 and 2015 who were later confirmed to be deceased. A further Ksh.42,000 was paid between July 2015 and January 2016 despite the families of the two beneficiaries having notified the department of their demise in September 2007 and February 2008 respectively. Although the Fund management has so far recovered an amount of Ksh.418,710, an amount of Ksh.143,090 has remained outstanding.

Submission by the Accounting Officer

451) The Accounting Officer submitted that the two deceased beneficiaries remained in the agency payroll up to January 2016 and had been paid KSh.519,800.00. The money's paid was returned by the bank amounting to KSh.418,710 by August 2017 leaving a balance of KSh.143,090. The Department wrote to National bank requesting the bank to return the remaining balance of Ksh.143,090 and the bank has responded positively.

Committee Observations and Findings

452) The Committee observed and found that:

1) the explanation given by the Accounting Officer with regard to failure to provide records for verification was persuasive;
2) a letter from National Bank returning the remaining balance of Ksh.143,090 was submitted, reviewed and verified; and
3) the explanation by the Accounting Officer was satisfactory and therefore the Committee considered the matter resolved.

iii) Un Supported Balance

453) The statement of financial assets and liabilities reflects receivables balance of Ksh.15,200,000 relating to cash owed by the defunct Cereals and Sugar Finance Corporation (CSFC) that is undergoing a winding up process. Deposit certificates do however not support the balance or other documentary evidence required for audit verification. The accuracy and validity of the receivable balance of Ksh.15,200,000 cannot be confirmed.

Submission by the Accounting Officer

454) The Accounting Officer submitted that the statement of financial assets and liabilities under receivables reflected a balance of KSh.15,200,000.00 relating to cash owed by the defunct Cereals & Sugar Finance Corporation. The National Treasury has established a taskforce on dormant funds including the defunct Cereals and Sugar Finance Corporation. The deposit was made sometimes back and the certificate of balance has been availed to auditors for review. The recoverability will be determined when the Task

Force Committee for Dormant Funds completes its task. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019.

455) A cabinet memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the Fund. With the conclusion of the winding up, the issues raised by the Auditor will be addressed.

Committee Observations and Findings

456) The Committee observed and found that:

1) A taskforce on winding up of dormant Funds had concluded its report with recommendations. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019;
2) The cabinet memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 of 19th November 2019 he advised that draft revocation orders be prepared on the fund;
3) with the conclusion of the winding up, the issues raised by the Auditor-General will be addressed; and

Committee Recommendation

457) The Committee recommended that:

The Auditor-General should, within three (3) months of tabling and adoption of this report, review the Cabinet memorandum and Attorney General's opinion on this matter and report in the subsequent audit cycle.

155. Transactions in the Cashbook not in Bank Statement

458) The bank reconciliation statement for the month of June 2018 reflects payroll payments for the months of May and June 2015 totaling Ksh.237,646 in the cashbook but not in the bank statement. Further, the cashbook also reflects receipts of Ksh.6,575, which have not been banked for more than five years. In absence of any reconciliation or explanations, it has not been possible to ascertain the accuracy of the balances reflected in the financial statements.

Submission by the Accounting Officer

The Accounting Officer submitted as follows:

i. The reconciliation for the month of June 2018 reflects payroll payments for the months of May and June 2015 totaling KSh.237,646.00 in the cashbook but not in the bank statement. By the time of audit, a reconciliation had not been done. However, this reconciliation was done in January 2019 and submitted to the auditor for review. This has been noted and adjustment was done in January 2019, reconciliation attached.

ii. The cashbook also reflects receipts of Ksh.6,575.20, which have not been banked for more than five years. This was error in our reconciliation statement since the receipt was banked on 19-06-2015. The error was noted and has since been rectified as per the attached January 2019 bank reconciliation.

Committee Observations and Findings

459)The Committee observed and found that:

1) the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.
2) the Accounting Officer belatedly provided the restatement that were adequately supported for audit review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendation

460)The Committee recommended that:

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

156. Failure to Capture Ledger Figures in the Financial Statement

461)The Trial Balance presented includes debit/credit balances, which have been omitted from financial statement as indicated below:

Item(s) Description	Debits Ksh.	Credits Ksh.
Depreciations/ Appreciations	337,703.00	
Expenses of management	10,613,702.35	
Interest on Investment-Asian	592,078,739.65	
Government Contributions		1,219,565.05
Interest on Investment Asian		1,075,831,824.85

462)No explanatory notes have been provided by management indicating what the figures represent. In addition, the Trial Balance total credits of Ksh.1,491,614,679 and debits of Ksh.1,042,467,389 do not agree. The difference of Ksh.449,147,290 has not been explained. Consequently, the Financial Statement may not reflect a true and fair position of the Fund as at 30 June 2018.

Submission by the Accounting Officer

463)The Accounting Officer submitted that these are historical figures and do not relate to the financial year under review. As indicated earlier, PMIS system has a challenge in the way it is designed and configured. The system does not knock off expenditures against income received hence the ledger accumulates expenditure and income. The challenge will be addressed when the new system is procured. The following items are reflected in the financial statements:

Government Contributions	KSh.1,219,565.05	Credit
Interest on Investment-Asian	KSh.1,075,831,824.85	Credit

The follow items are brought forward Income/ expenditure not reflected in the ledger and they did not relate to the period of audit;

Interest on Investment-Asian	KSh.592,078,739.65	Debit
Depreciations/ Appreciations	KSh.337,703.00	Debit
Expenses of management	KSh.10,613,702.35	Debit

464) In addition, the Trial Balance total credits of Ksh.1,491,614,679 and debits of Ksh.1,042,467,389 do not agree. The difference of Ksh.449,147,290 has not been explained. Consequently, the Financial Statement may not reflect a true and fair position of the Fund as at 30 June 2018.

465) The difference between the total credits balance of KSh.1,491,614,679 and debits of KSh.1,042,467,389 is a PMG figure of KSh.449,147,290 as highlighted in the ledger for 2017/2018. The PMIS system was not fully developed to capture certain items and produce financial reports, the same will be addressed by Procurement of new System/re-engineering process. The procurement of new system/re-engineering will incorporate all applicable accounts codes, to capture receivables and clearly show the PMG figure in the Trial balance among other item.

Committee Observations and Findings

466) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.
2) The Accounting Officer belatedly provided the restatement that were adequately supported for audit review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendation

467) The Committee recommended that:

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

468) The Committee observed that Paragraph 157 to 159 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

Emphasis of Matter

160. Material Uncertainty Related to Going Concern/Sustainability of Services

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

Submission by the Accounting Officer

470) The Accounting Officer submitted that the National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the Fund. With the conclusion of the winding up, the issues raised by the Auditor will be addressed.

Committee Observations and Findings

471) The Committee observed and found that:

1) A Taskforce on winding up of Dormant Funds had concluded its report with recommendations. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019;
2) A Cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in in his response *vide* his letter Ref. AG/LDD/199/1/81 dated 19th November, 2019, the Attorney General advised that draft revocation orders be prepared on the fund;
3) With the conclusion of the winding up, the issues raised by the Auditor would be addressed; and
4) The Committee marked the matter as resolved.

Committee Recommendation

472) The Committee recommended that:

The Auditor-General should, within three (3) months of tabling and adoption of this report, review the Cabinet memorandum and Attorney General's opinion on this matter and report in the subsequent audit cycle.

473) The Committee observed that Paragraph 161 and 162 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

SUBSCRIPTIONS BY KENYA TO INTERNATIONAL ORGANIZATIONS

REPORT ON THE FINANCIAL STATEMENTS

Basis for an Adverse Opinion

163. Comparison Between the Budget and Actual Amounts

474) The statement of comparison between the budget and the Actual Amounts indicates that during the year under review, an amount of Ksh.500,000 was provided in the budget but no expenditure was incurred. The Management has explained the huge variance arose because the amount in the budget was a 'notional' budget provision, as there was no amount that had been called for payment during the year in absence of such a resolution by the member states. The budget process does not provide for such a 'notional budgetary estimates' for parliamentary approval as this would exposes the Government to abuse and misappropriation/misdirecting of public funds. Further requisition and approval of budget which is subsequently not utilized deny other needy government programs funds for implementation.

Submission by the Accounting Officer

475) The Accounting Officer submitted that the Government of Kenya pays subscriptions to a number of international institutions. Payments are made on presentation of demand notes by the institutions. The National Treasury makes budgetary provisions to secure funds in case an invoice for these payments is received. During the year under review, the institutions did not submit demand notices for payment leading to under expenditure of Ksh.500,000.00.

Committee Observations and Findings

476) The Committee observed and found that:

1) The Committee observed that the explanation given by the Accounting Officer on comparison between the budget and actual amounts was persuasive and therefore marked the matter resolved.

164. Failure to Provide the Trial Balance

477) The Management did not provide trial balance relating to the vote, for the financial year 2017/2018. The source and accuracy of the information contained in the financial statements could therefore not be ascertained.

Submission by the Accounting Officer

478) The Accounting Officer submitted that by the time of audit, the trial balance was not provided because there were no transactions. However, a trial balance reflecting nil transactions has since submitted.

Committee Observations and Findings

479) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.
2) The Accounting Officer provided the statements that were adequately supported for audit review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendation

480) The Committee recommended that:

1) **The Accounting Officer should ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within for review and verification as provided for in Article 229 (4)(h), and section 81(4)(a) of the PFM Act 2012; and**
2) **The Auditor-General should review the revised financial statements and report in the subsequent audit cycle.**

165. Comparison of expenditure with the Appropriation Account

481) A comparison of balances reflected in the Treasury main financial statement indicates that the Government made several payments as Grants and transfers amounting to Ksh.1,069,476,595 during the year under review. Included in Ksh.1,069,476,595 are membership dues and subscription to unspecified international organizations totaling to Ksh.48,779,790. 54. It has not been possible to draw a line between what is payable under the subscription to international organization and those under Grants and Transfers to various expenditure vote heads of international nature. There are various votes under The National Treasury. Vote 1071 deals with voted provisions while vote 0006 is for CFS Subscriptions (CFS R053).

Submission by the Accounting Officer

482) The Accounting Officer submitted that during the year under review, the Government made payments as grants and transfers to amounting to Ksh.1,069,476,595.00. Included in the expenditure of Ksh.1,069,476,595.00 are membership dues and subscriptions totaling Ksh.48,779,790 that was paid to various international organizations under voted provision vote 1071. There were no payments made under CFS Subscriptions to International Organizations Vote 0006 during the year under review. Unlike expenditure charged on Vote 1071, the budget and expenditure chargeable on Vote 0006 is in accordance with the provisions of the Acts that established the institutions. Despite the two categories of subscriptions, there is no double budgeting for similar transactions.

Committee Observations and Findings

483) The Committee observed and found that the explanation given by the Accounting Officer on comparison of expenditure with the appropriation account was persuasive and therefore considered the matter resolved.

166. Unsupported Balances

484) In the Audit Report of the previous year, reference was made to the report of the financial year 2015/2016 where the statement of details of Kenya Government share subscription and capital contribution to international organizations had reflected local value of subscription totaling to Ksh.51,403,651,783 against various amounts in foreign currencies as at 30 June 2016. However, an independent confirmation of those balances then showed that subscription were received from only four (4) out of the twelve (12) organizations. In addition, the amount confirmed by two of those organizations had differed significantly. Further, the subscription for 2014/15 totaling to Ksh.116,813,106,919 in respect of 10 organizations had been restated to Ksh.49,750,957,607 due to conversion of foreign currencies. The huge foreign currencies loss had not been explained.

Submission by the Accounting Officer

485) The Accounting Officer submitted that at the time of audit of financial statements for the year ended 30th June, 2016, four organizations namely African Capacity Building Foundation, P.T.A. Bank, International Finance Corporation and Macroeconomic and Financial Management Institute (MEFMI) had confirmed Kenya`s status.

486) The amounts confirmed by P.T.A and MEFMI differed with the reported amounts but have since been updated as indicated in the confirmation letters. The remaining eight institutions later confirmed Kenya's subscriptions. The subscriptions for 2014/2015 amounting to KSh.116,813,106,919.00 in respect of eight organizations included subscribed capital. The amount was re-stated to KSh.49,750,957,607.00 in order to reflect the total paid up capital as at 30th June 2015. The variance in foreign currencies does not represent a loss to the Government but majorly attributable to reporting the paid up capital, which is less than the amounts, subscribed. The process of documenting the subscribed and paid up capital as well as the ownership documents is on-going.

Committee Observations and Findings

487) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the unsupported balances on international subscriptions was persuasive;
2) The missing documents from IMF, AfDB and BCD institutions were provided for review and verification; and and the the matter was marked as resolved.

488) <u>The Committee observed that Paragraph 167 to 168 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

4.0 THE PRESIDENCY

FINANCIAL STATEMENTS FOR VOTE 1011

Unqualified Opinion

489) **The Committee noted that there were no material issues noted during the audit of the financial statements of this Office.**

490) The Committee observed that Paragraph 169 to 171 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

5.0 STATE DEPARTMENT FOR INTERIOR

FINANCIAL STATEMENTS FOR VOTE 1021

Dr. Eng. Karanja Kibicho, the Accounting Officer for the State Department of Interior (Vote 1021) appeared before the Committee on 18th February, 2020 to adduce evidence on the audited financial statement for the State Department of Inter0ior (Vote 1021) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

(1)	Mr. Hilary Mutyambai	-	Inspector-General of Police
(2)	Mr. Kangethe Thuku	-	PAS/ICS
(3)	Mr. Alexander Muteshi	-	Director-General, Immigration
(4)	Mr. Njoroge Mbugua	-	Deputy Inspector-General of Police
(5)	Mr. Noor Gabon	-	Deputy Inspector-General of Police
(6)	Mr. James K. Karori	-	Senior Assistant Accountant General
(7)	Mr. Christopher Keter	-	PSCMO
(8)	Mr. Stephen G. Wamae	-	DD/SCMS
(9)	Ms. Elizabeth W. Kiano	-	Internal Audit
(10)	Ms. Alice W. Gichu	-	Senior Chief Finance Officer
(11)	Mr. Rogers M. Mbithi	-	Commandant, Police Air wing
(12)	Mr. Richard Chepchilat	-	Chief Engineer, National Police Service
(13)	Mr. David M. Mutia	-	PFO
(14)	Mr. Peter N. Muita	-	Chief Finance Officer
(15)	Ms. Loise Kibicho	-	Acting Accountant-General Immigration
(16)	Mr. John Mutua	-	NMG

172. Pending Bills

491)The financial statements indicate that pending bills amounting to KSh.4,835,827,891 were not paid during the year under review but were instead carried forward to 2018/2019 financial year. Had these bills been paid and the expenditure charged to the relevant items of accounts for 2017/2018, the financial statements for the year ended 30 June, 2018 would have reflected a net deficit of KSh.4,677,852,838 instead of a net surplus of KSh.157,975,053 now shown.

Submission by the Accounting Officer

492)The Accounting Officer admitted that the Financial Statement indicated that pending bills amounting to KSh.4, 835,827.00 were not paid during the year under review but instead were carried forward to 2018/2019 financial year. During the financial year 2017/2018 the State Department of Interior's budget was KSh.131,589,172,840 against exchequer release of KSh.121,019,683,026 resulting to a deficit of KSh.10,569,489,814.

However, the management would like to confirm that the above pending bills have since been settled.

Committee Observations and Findings

493)The Committee observed and found that:

1) The pending bills had since been cleared in the subsequent financial year ; and
2) The matter be resolved.

Committee Recommendation

494)The Committee recommended that:

The matter be resolved.

173. Purchase of Helicopters - Tender No. NPS/AW/001/2016-2017

495)The tender for purchase of three new helicopters under classified procurement; AW139 LE- law enforcement twin turbine engine, AW139 VIP- twin turbine engine and AW119 KX -single turbine engine was awarded to a foreign firm at a contract sum of Euros39,123,357(equivalent to KSh.4,927,993,312) through direct procurement method. The contract was signed on 8th June, 2017. The tender was evaluated on the four stages; preliminary, technical, financial and negotiations stage. Audit examination of the underlying documents and records revealed the following unsatisfactory matters:

173.1 Preparation of the Bid Documents

496)A review of the tender evaluation report revealed that only one bidder was invited and issued with bid documents on 29 March 2017 for purchase of the three new helicopters - AW139 LE, AW139 VIP and AW119 KX.

497)Further, no evidence was provided to show that technical input in preparation of the tender documents. As a result, additional essential standard avionics helicopter parts required to be issued to form the basis of tender preparation and subsequent negotiations were not included in the original tender documents contrary to Section 104 (a) of the Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

498)The Accounting Officer admitted that this was a classified procurement conducted in accordance with section 90 of the Act which excludes the application of the other provisions of the PPAD Act and its Regulations. This procurement proceeding had been approved by the Cabinet based on the security nature of the items.

499)Further, the Accounting Officer admitted that only one bidder, Leonardo Helicopters Division s.p.a. was issued with the tender documents for the purchase of the three new helicopters; AW139LE, AW139VIP and AW119KX prepared in accordance with sec 104(a) of the Public Procurement and Asset Disposal Act, 2015. The bidder was selected based on the fact that they had previously supplied and delivered similar aircraft to the National Police Service and that the products they delivered were adjudged suitable for the Service. The firm is the sole manufacturer of this type of helicopter and the Service considered that the Original Equipment Manufacturer (OEM) was best placed to manufacture and deliver the aircraft as per the requirements.

500) The Accounting Officer confirmed that the technical input was provided by the user which was subsequently used in preparation of the bid documents.

Committee Observations and Findings

501) The Committee observed and found that:

1) The classified procurement method was provided for under Section 90 of the Public Procurement and Asset Disposal Act of 2015 and a Cabinet Approval was duly sought;
2) The matter be resolved.

Committee Recommendations

502) The Committee recommended that:

The matter be resolved.

173.2 Upward Variation of the Original Bid Price at Negotiation Stage

503) Examination of tender evaluation report revealed that the tenderer was evaluated at preliminary and technical stage and was found to be responsive. At financial evaluation stage, the tender evaluation committee recommended the firm to be awarded Tender No. NPS/AW/001/2016-2017forsupply and delivery of three new turbine engine helicopters to the National Police Service at the bid price of Euros 31,941,200 (equivalent to KSh.4,029,701,792) as tabulated below:

Description	Cost in Euros	Equivalent Cost KSh.
AW139 VIP Helicopter	14,729,400	1,858,261,104
AW139 Law Enforcement Helicopter	13, 390,800	1,689,383,328
AW119Kx training helicopter	3,821,000	482,057,360
Total	**31,941,200**	**4,029,701,792**

504) Further, the tender evaluation committee also recommended that the outcome be negotiated with the bidder to get better value for the tax payers' money through:

a) Harmonizing the submitted bid document with the issued tender document and;
b) Lowering price without compromising the technical specifications required in the tender document.

505) However, during negotiations stage carried out on 8 May 2017, the total cost of the tender went up from the original bid price of Euros 31,941,200 to Euros 39,123,357 by

Euros 7,182,157 (KSh.906,100,927) contrary to tender evaluation committee recommendation for negotiation to lower the price without compromising the technical specifications in the tender.The negotiation committee minutes indicates that the additional items negotiated were not included in the original tender documents and included amongst others; weather radar, enhanced ground proximity warning system, additional flight display and FLIR Ultra force 350 EP Camera all amounting to Euros 7,182,157 (KSh.906,100,927.12).

Submission by the Accounting Officer

506)The Accounting Officer admitted that the cost for the three aircrafts as tendered by the supplier increased by €7,182,157 from the bid price of € 31,941,200 to € 39,123,357 following negotiations for additional equipment that was considered essential in enhancing the safety and airworthiness of the helicopters.

507)The additional items amounting to € 7,182,157 were as follows:

	Aircraft	Item Description	Amount
i.	**AW139 VIP Helicopter**	Flight test final	€ 109,500
		Training for 5 pilots(3 instruments rating + 2 Avionics and Electricals) and 4 Engineers(3 Airframes and Engines + Avionics and Electricals	€ 940,000
		Spare parts	€ 540,878
		Transportation	€ 225,600
		Pilot on site(6 months)	€ 358,700
		2 year technical support	€ 1,138,000
		Auxiliary tank	€ 45,100
		EGPWS	€180,000
		Weather Radar	€ 165,000
		5th Display	€ 60,000
		Foldable seats	€ 50,000
		Total	**€ 3,714,078**
ii.	**AW139 LE**	Intermediate inspection for 2 AW139	€ 109,500
		Transportation	€ 225600
		Auxiliary tank	€ 45,100
		EGPWS	€ 180,000
		Weather radar	€ 165,000
		5th Display	€ 60,000
		Ground station package	€ 610,000
		FLIR Ultra Force 350 EP camera	€ 590,400
		Total	**1,985,600**
iii.	**AW119KX**	Flight test final	€ 141,000
		Training for 5pilots (3 instruments rating + 2 Avionics) and 6 engineers(4 Airframes and Engines + 2 Avionics and Electricals)	€ 670,000

		Spare parts	€ 361,179
		Transportation	€ 205,100
		Pulsed chip	€ 21,400
		Barrier filter	€ 47,300
		Skid shoes	€ 37,800
		Total	**1,483,779**
		Grand Total	**7,182,157**

508) He reported that although the final cost of the helicopters went up, from the additional equipment that enhanced safety and air worthiness of the helicopters the tax payer received value for money. The reasons enumerated here above were properly captured in the negotiation report.

Committee Observations and Findings

509) The Committee observed and found that:

1) It was satisfied with the explanation by the Accounting Officer on the increase in the cost for the three aircrafts as tendered by the supplier by €7,182,157 from the bid price of € 31,941,200 to € 39,123,357 following negotiations for additional equipment that was considered essential in enhancing the safety and airworthiness of the helicopters;
2) It would be advisable for respective procuring entities to keep databases of standard equipment requirements, and have them updated periodically, in order to facilitate procurement processes, especially those involving technical equipment; and
3) The matter was, therefore, marked as resolved.

Committee Recommendations

510) The Committee recommended that:

The matter be resolved.

173.3 Verification of Deliveries

511) An audit verification exercise carried out on 15 May 2019 confirmed that the helicopters were delivered at National Police Service Air wing, Wilson Airport. However, two of the trainer helicopters; AB 206 - A/C 9173 and A/C 9175 had not been fully assembled as at the time of the audit verification exercise. Further, only two helicopters registration numbers 5Y-DIG and 5Y-PEU were certified by the manufacturer and insured as required under the Civil Aviation Insurance Regulations.

Submission by the Accounting Officer

517) The Accounting Officer admitted that the auditors visited the hanger at Wilson Airport, Hanger No.17 on 15th May 2019 and inspected and verified all the delivered helicopters. He further admitted that the trainer helicopters had not been fully assembled at the time of audit verification. He reiterated that the process of assembling the aircrafts was ongoing and was expected to be finalized by the end of March, 2020.

518) The Accounting Officer clarified that police aircrafts are exempted by the Kenya Civil Aviation Authority (KCAA) from insuring their aircrafts. However, the two aircrafts were insured temporarily for training purposes which was a requirement from the manufacturer.

Committee Observations and Findings

519) The Committee observed and found that:

1) The process of assembling the aircrafts was still on-going and was expected to be finalized in March 2020;
2) The Kenya Police Service is exempted by the Kenya Aviation Authority from insuring its aircrafts; and
3) The matter was marked as resolved.

Committee Recommendations

520) The Committee recommended that:

1) **The State Department responsible for police aircraft should consider insuring all police aircraft.**
2) **The matter be resolved.**

173.4 Unexplained Payment for Difference in Exchange Rates

521) Examination of payment voucher numbers 202 and 210 dated 30 June 2018 revealed that amounts of KSh.4, 000,769,752 and KSh.927, 223,560, respectively were paid to the firm for supply of the 3-new turbine engine helicopters. However, as per payment voucher number 196 dated 30 June 2018, an amount of KSh.76, 368,793 was also paid to the firm for the difference in exchange rates. No justification was provided for the payment.

Submission by the Accounting Officer

522) The Accounting Officer submitted that at the time the State Department requested the bank to open the LC on 29th November 2017, the indicative rate of exchange between KSh and € was 126.16. However, there was a time lapse between the time the indicative rates were given and the time the Ministry disbursed the money to the bank on 14th February 2018 when the rate of exchange between KSh and € was 128.60. This resulted to an exchange difference of KSh.76, 368,793

Committee Observations and Findings

523) The Committee observed and found that:

1) The Committee noted that there was a substantial time lapse between the time the initial quotation was provided and the time payment was made;
2) The Committee marked the matter as resolved.

Committee Recommendation

524) The Committee recommended that:

The matter be resolved.

174. Supply and Delivery of CQ 7.62mm General Purpose Machine Guns and AK-47 Rifles - Contract No. NPS/CFA/017/2016-2017

525) The National Police Service procured under classified items through direct procurement method 300No. CQ 7.62mm General Purpose Machine Guns and 12,000No. AK-47 Rifles. A foreign firm was invited to tender on 2 May, 2017 for the supply of 300No. CQ 7.62mm General Purpose Machine Guns and 12,000No. AK-47 Rifles. The tender was closed on 8 May 2017 and the bid opened on the same date. The contract was signed on 8 June 2017.

526) The tender was evaluated and after negotiations, the contract price was agreed at USD 2,696,250 (KSh.27, 231,250). However, examination of the tender documents revealed the following unsatisfactory matters:

527) The tender evaluation report indicated that at the preliminary evaluation stage, the bidder did not provide certificate of incorporation and a weaponry manufacture registration /authorization and that at the technical evaluation stage, the bidder was not responsive on rate of fire, maximum effective range and provision of accessories.

528) Failure to meet all the requirements by the bidder SHOULD have led to automatic disqualification. However, the tender was awarded to the bidder contrary to Section 80 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

529) In the circumstances, it has not been possible to ascertain whether the State Department for Interior got value for money in respect of the Contract No. NPS/CFA/017/2016-2017.

Submission by the Accounting Officer

530) The Accounting Officer submitted as follows:

I. **Certificate of Incorporation**
The firm had attached a manufacturer's authorization letter indicating that they are established and reputable manufacturers of CQ 7.62X52MM General Purpose Machine Gun and type AK-47 ASSAULT Rifles. In addition, a Corporation Business licence registered as No.100000000001523 (4-1) was submitted in the tender document which was the equivalent of the Kenyan Certificate of Incorporation.

II. **Maximum effective range** – the maximum effective range of 1000-1,500m was too high for this type of the rifle and concluded that there was an error in the specifications. The standard maximum effective range for the rifle is 400m as indicated in the submitted documents and not 1,000-1,500m. The Evaluation Committee confirmed that this was an error in the specifications as issued and could be clarified further by the firm during the negotiation stage. The firm confirmed this fact during negotiation stage and Evaluation Committee upheld that the standard maximum effective range for the rifle was 400m as submitted.

III. **Accessories** – Although this was part of the requirement in the tender, the Evaluation Committee noted that this was an issue that could be clarified during the negotiation stage. At the negotiation stage, the parties agreed that the following accessories would be delivered:-

	Item description	**Accessories to be supplied**
1	CQ GPMG	Spare barrel
		Cleaning rod
		Screw driver wrench
		Ammunition boxes with the capacity of 100 rounds
2	AK-47 Rifles	Four spare magazines
		Sling
		Oil can
		Complete magazine carrying pouch
		Cleaning rod
		Provide a box with spare parts for each 500 Rifles supplied which amounted to 24No. Boxes for the 12,000No. Rifles.

IV. **Rate of fire** – The firm complied with this technical specification aspect and there was an error in capturing the actual responsiveness at the evaluation report.

Committee Observations and Findings

531)The Committee observed and found that:

1) It was persuaded by the submissions by the Accounting Officer on the issues raised by the Auditor-General.
2) There is a need for continuous enhancement of the technical capacity of the State Department.

Committee Recommendations

532)The Committee recommended that:

The matter be resolved.

175. Proposed Grilled Masonry Perimeter Fencing Including Canopies at Kenya Police Headquarters and Vigilance House Annex Nairobi -Tender No. KPS/RT/A/3/2016-2017

533) The project was procured under restricted tendering method where ten bidders were invited to bid and all responded. A local firm was awarded the contract at a contract sum of KSh.19,023,971 being the lowest responsive bidder. The project was scheduled to take twelve months to completion. However, examination of the tender documents revealed that although Section 3.3 of the tender documents required the bidders to have a valid registration with National Construction Authority, the firm awarded the contract had provided an expired certificate from National Construction Authority.

534) In addition, the bidder did not provide audited financial reports for the previous two years that is, 2015 and 2016 but attached audited report for the financial year 2012.

535) In the above circumstances, the tender was not properly, transparently and fairly awarded as contemplated under Article 227(1) of the Constitution of Kenya. It cannot, therefore, be confirmed whether the State Department for Interior got value for money in respect of the contract.

Submission by the Accounting Officer

536) The Accounting Officer acknowledged that the NCA certificate provided by the winning firm and attached to the bid document submitted by the tenderer was expired and therefore not update. However, he attributed this to an oversight on the part of the evaluation team as the minutes provided indicate that the firm provided a valid NCA certificate as required.

537) The Accounting Officer reported that among the ten (10) firms which submitted the bids, the winning firm recorded the lowest tender price on financial evaluation/ assessment therefore there was no loss of funds to the tax payer. The work was done as per the specification and supervised by the public works officer and a certificate of completion issued. Audited financial accounts for the previous two years that is 2015 and 2016 have since been provided.

538) The Accounting Officer stated that the project was procured under restricted tendering method where ten bidders were invited to bid and they all responded, therefore the tender was properly, transparently and fairly awarded. The tender was evaluated and four bidders were found to be responsive by the evaluation committee. M/s Choosen Star Agencies was the lowest among the evaluated responsive bidders and was awarded the contract at the total sum of KSh.19,023,971. M/s Concept Group Ltd was the second lowest bidder at the sum of KSh.23,067,818.

539) The project took twelve months to complete as per the terms of the contract. The workmanship was carried out to the satisfaction of the client and the audit team. In the process about KSh.4,043,847 was saved from Public funds. After construction of the masonry perimeter fencing there has been enhanced security since there is proper

screening on all individuals accessing the premises, in addition to securing the place there is also an improvement in the aesthetics of the building.

Committee Observations and Findings

540) The Committee observed and found that:

1) Among the ten (10) firms which submitted the bids, the winning firm recorded the lowest tender price on financial evaluation/ assessment and, therefore, there was no loss of funds to the tax payer.
2) The work was done as per the specification and supervised by the public works officer and a certificate of completion issued.
3) Audited financial accounts for the previous two years, that is, 2015 and 2016, were subsequently provided.
4) The matter was marked as resolved.

Committee Recommendation

541) The Committee recommended that:

The matter be resolved.

542) The Committee observed that Paragraph 176 on effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

REVENUE STATEMENTS OF STATE DEPARTMENT FOR INTERIOR

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

177. Uncollected Fuel Storage Tanks Annual Licence Fees

543) Records maintained at Nairobi County Commissioner's offices indicated that two hundred and eighty (280) petrol stations had been licensed and were to pay fuel storage tanks annual licence fee of KSh.4,000 per station.

544) However, audit review established that, out of the two hundred and eighty (280) registered petrol stations, only seventy-six (76) paid their annual licence fees in 2017/2018 financial year, resulting in uncollected revenue amounting to KSh.816,000 from two hundred and four (204) petrol stations. The uncollected amount had not been disclosed or reflected in the statement of arrears of revenue as at 30 June 2018.

545) In addition, audit inspection and verification exercise within Nairobi County of sampled petrol stations revealed that a total of twenty-five (25) operational petrol stations were not registered by Nairobi County Commissioner for collection of fuel storage tanks annual license fees and thus, denying the Government revenue amounting to

KSh.100,000 indicating that the extent of loss of revenue could be higher if the entire population of the petrol stations was inspected.

546) Further, the Department for Interior explained that provisions of Section 14(5) of the Petroleum Act,1947 was the basis for collecting the revenue until 16 May 2017 when the department realized that there was no legislation governing the revenue collection. However, the Department continued to collect the annual licence fees from petrol stations even after 16 May 2017 during 2017/2018 financial year.

Submission by the Accounting Officer

547) The Accounting Officer admitted that the State Department has been collecting Revenue on Licensing of petroleum Storage tanks, and the collection was authorized under the Petroleum Act 1947 section 14(5) as printed on the petroleum Licences.

548) It was in view of the above that the department kept on collecting the above said revenue as confirmed by the auditors' examination of State Department's receipt books. However, there were arrears which are yet to be paid by the various petrol stations. The Energy Regulatory Commission (ERC) is now mandated to collect the above Revenue as indicated in the letter Ref: ERC/CPA/4/ET/jj dated 3rd August, 2018. Communication has been made to the Commission to follow up on the above uncollected Revenue as per Ref: AC.10/5/1vol 1/25 dated 30th January, 2020.

Committee Observations and Findings

549) The Committee observed and found that:

1) The collection of the revenue in question has since been transferred to Energy and Petroleum Regulatory Authority (EPRA);
2) The EPRA is, therefore, mandated to collect all the revenue including the any pending cases; and
3) The matter was marked as resolved.

Committee Recommendations

550) The Committee recommended that:

The matter be resolved.

178. Variance between the Revenue Statements and Actual Receipts under Certificate of Good Conduct

551) As disclosed in Note 1 to the revenue statements under fees on use of goods and services, revenue amounting to KSh.674,327,058 was collected in respect of Certificate of Good Conduct during the year ended 30 June, 2018. However, examination of revenue records maintained at Directorate of Criminal Investigations Department showed that revenue collected under Certificate of Good Conduct during the year was KSh.713,835,000, resulting in unreconciled difference of KSh.39,507,942.

552) Further, a review of the response from the Directorate of Criminal Investigations revealed that out the revenue amounting to KSh.69,296,850 collected by Postal

Corporation of Kenya at Huduma Centers, only KSh.25,281,850 was remitted to Central Bank of Kenya, resulting in unremitted revenue of KSh.44,015,000.

553) Although the State Department for Interior explained that the amount of KSh.69,296,850 collected by the Postal Corporation of Kenya on behalf of Directorate of Criminal Investigations comprised KSh.51,290,000 and KSh.18,006,850 remitted to Central Bank of Kenya during 2017/2018 and 2016/2017 financial years, respectively to Central Bank of Kenya. No documentary evidence was provided to support this explanation.

554) Consequently, it has not been possible to confirm the completeness and accuracy of the revenue amounting to KSh.674,327,057 in respect of Certificate of Good Conduct included in the statement of receipts and transfers for the year ended 30 June 2018.

Submission by the Accounting Officer

555) The Accounting Officer admitted that the Revenue Statement shows revenue collected under certificate of good conduct is KSh.674,327,058.00 and the Directorate of Criminal Investigation records shows KSh.713,835,000.00 resulting in a difference of KSh.39,507,942.00.

556) The Accounting Officer confirmed that there was a delay in banking by Postal Corporation of Kenya. The amounts in question were received at the bank in 2016/2017 and 2018/2019 Financial years hence captured in the relevant financial years.

Committee Observations and Findings

557) The Committee observed and found that:

1) The submission by the Accounting Officer on the completeness and accuracy of the revenue amounting to KSh.674,327,057 in respect of Certificate of Good Conduct included in the statement of receipts and transfers for the year ended 30 June 2018 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

558) The Committee recommended that:

1) **The Cabinet Secretary for National Treasury should always ensure that there is a designated receiver of revenue for all national government entities in line with the provisions of Article 209(1), (2) and (4) of the Constitution of Kenya 2010 and Section 75 of the PFM act 2012.**
2) **The matter be resolved.**

179. E-Citizen Services

559) Although the E-citizen services led to enhanced revenue collection, a comparison of the revenue amounts in the revenue statements with E-citizen collections/remittances during 2017/2018 financial year revealed unreconciled differences amounting to KSh.3,658,646,536. No explanation was given for the unreconciled differences.

Submission by the Accounting Officer

560) The Accounting Officer admitted that a comparison of the Revenue amounts as disclosed in Note 1 to the Revenue Statements with Ecitizen collections/ Remittances during 2017/2018 Financial Year show a difference of KSh.1,472,098,860.70 and not KSh.3,658,646,536.00 as shown in the table below :-

	Revenue source	Account No.	Revenue statements Amounts (KSh)	E-Citizen Revenue Remittances (KSh)	Difference KSh
1	Registration of Births and Deaths	1420224	322,004,210.00	12,969,220.00	309,034,990.00
2	Passport Fees	1420226	1,115,906,360.00	890,278,500.00	225,627,860 .00
3	Other Immigration Fees	1420229	5,514,205,683.00	4,881,343,880.00	632,861,803.00
4	Certificate of Good Conduct	1420234	674,327,057.70	369,752,850.00	304,574,207,.70
	TOTAL		**7,626,443,310.70**	**6,154,344,450.00**	**1,472,098,860.70**

561) However, the amounts presented in the Revenue Statements comprises of Revenue received from various sources. Revenue is received through the Ecitizen platform, Huduma Centres through Postal Corporation and direct banking to Central Bank of Kenya (CBK) revenue account. Banking are also done by Counties through Kenya Commercial Bank (KCB) Revenue collection Account for Civil Registration Services and Good Conduct Fees and subsequently transferred to CBK Revenue Account.

562) The Accounting Officer tabled Revenue analysis for 2017/2018 Financial Year, the highlighted amounts being the E-citizen collections while the rest are receipts from the above-mentioned sources.

Committee Observations and Findings

563) The Committee observed and found that the unreconciled differences had since been reconciled, analysis provided, verified and certified; and therefore the matter was marked as resolved.

Committee Recommendation

564) The Committee recommended that:

The matter be resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

183. Irregular Payment Per-diem and Allowances to Board Members

565) Examination of payment voucher number 154 dated 08 June 2016 revealed that an amount of USD 59,000 equivalent to KSh.6,015,050 was paid to an International Management Institute for full board accommodation, airport transfers, study materials, study tours, weekend excursions and medical insurance for six board members and four senior staff of Kenya Citizens and Foreign Nationals Management Service (KCFNMS).

566) During the same training trip, the board members were also paid quarter per diem for thirteen days through payment voucher number 156 dated 13 June 2016 amounting to USD3,263 equivalent to KSh.332,663 per board member totalling KSh.1,995,977.

567) In addition, examination of payment voucher number 180 dated 30 June 2018 revealed that the six board members were each paid KSh.300,000 being sitting allowance for fifteen days totalling KSh.1,800,000 during the same training in Israel at the management institute.

568) Further, examination of payment voucher number 203 dated 30 June 2018 revealed that five board members were each paid KSh.340,484 being payment of extra per diem for thirteen days totalling KSh.1,702,417.75 during the same trip to Israel.

569) The original arrangement approved by the full board meeting held on Tuesday, 31 May 2016 authorized payment of USD 59,000 to the management institute for full accommodation and the Accounting Officer approved payment of ¼ per diem.

570) However, a comparison of full per diem in Israel of USD 1004 with ¼ per diem of USD 251 resulted in irregular payment of extra per diem of KSh.1,702,417.75 contrary to Salaries and Remuneration Commission (SRC) advice as communicated in a letter Ref. No.SRC/TS/DRRPS/3/26Vol.V(127) dated 06 July 2016 on payment of allowances to board members of KCFNMB, which provided for payment of quarter per diem for international travels for a limited number of days.

571) In addition, payment of full per diem of KSh.1,330,651 per board member based on State Corporations Advisory Committee Circular No. OP/SCAC.1/1/5 (45) dated 29 August 2016 was made contrary to Salaries and Remuneration Commission Circular No.SRC/ADM/CIR/1/13 Vol.III (126) dated 10 December 2014 under scope of application which instructed all other existing Circulars on Daily Subsistence (Local and Foreign travel) to cease to apply.

Submission by the Accounting Officer

572) The Accounting Officer admitted that the Board Members were paid allowances as observed by the auditors. The terms and conditions of service for the board members of SAGAs and State Corporations is governed by the State Corporation Advisory Committee (SCAC). The board members were paid as per the State Corporations

Advisory Committee circular dated 29th August, 2016 which states that board members who are on duty and whose accommodation costs are fully catered for may be entitled to the accommodation allowances due less the actual costs incurred on their accommodation.

573) The members were also paid the sitting allowance for 13 days only. Earlier, they had been paid sitting allowance for 15 days but 2 days were later recovered.

Committee Observations and Findings

574) The Committee observed and found that:

1) The money paid as per diem and allowances to the Board Members has since been recovered as per the list tabled by the Accounting Officer; and
2) The Committee marked the matter as resolved.

Committee Recommendations

575) The Committee recommended that:

The matter be resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

184. Operating Without a Board of Directors

576) During the year under review, the Service operated without a board of directors to guide its policies and operations contrary to Section 5(1) of the Kenya Citizens and Foreign Nationals Management Service Act, 2011. The term of the five board members expired on 26 June 2017 having been appointed to office for a period of five years on 25 June 2012. The Chairman’s term also expired on 17 April 2017 having been appointed on 16 April 2012 for a period of six years.

Submission by the Accounting Officer

577) The Accounting Officer admitted that the Kenya Citizens and Foreign Nationals Management Service was operating without a Board of Directors for the period under review after the tenure of the previous Board expired on 26th June 2017. The relevant authorities have been notified and the State Department is still awaiting the appointment of the Board.

Committee Observations and Findings

578) The Committee observed and found that:

1) The Board of Kenya Citizens and Foreign Nationals Management Service was yet to be constituted; and
2) The matter, therefore, remained unresolved.

Committee Recommendations

579) The Committee recommended that:

Within three months after adoption of this report, the Accounting Officer should update the National Assembly on the status of the Board of the Kenya Citizens and Foreign Nationals Management Service.

580) The Committee observed that Paragraph 185 to 190 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

NATIONAL HUMANITARIAN FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

191. Unvouched Expenditure

581) Disclosed in Note 4 to the financial statements under other grants and payments are payments amounting to KSh.7,371,112 in respect of construction of Internally Displaced Persons houses in Turkana County and KSh.6,667,000 for office running expenses for the year ended 30 June 2018. However, payment vouchers and supporting documents for the expenditure were not provided for audit review.

582) In the circumstances, the validity and propriety of the expenditure of KSh.14,038,112 could not be ascertained.

Submission by the Accounting Officer

583) The Accounting Officer admitted that the amount totaling KSh.7, 371,112.00 is payment to Kabira Ventures for the construction of Internally Displaced Persons houses in Turkana County. The payment voucher and the contract documents were forwarded to Office of the Auditor General together with the payment vouchers for KSh.6, 667,000.00 for office running expenses under unreferenced letter dated 18th December 2018.

584) These documents were not returned to the department from Office of the Auditor General (AOG) therefore unable to respond further to this issue.

Committee Observations and Findings

585) The Committee observed and found that:

1) The supporting documents had since been availed, examined and verified by the Auditor General; and
2) The Committee marked the matter as resolved.

Committee Recommendations

586) The Committee recommended that:

The matter be resolved.

192. Irregular Payments to Integrated Internally Displaced Persons

587) Disclosed also in Note 4 to the financial statements are grants to Internally Displaced Persons under cash payments programme amounting to KSh.2,651,669,415 in 2017/2018 financial year. Although schedules of payments to internally displaced persons were provided for audit review, the following anomalies were observed:

192.1 Payments to Internally Displaced Persons without National Identity Cards in Turkana

588) Examination of the list of Internally Displaced Persons from Turkana County submitted for audit revealed that an amount KSh.4,600,000 was paid to Internally Displaced Persons who did not have national identification cards. As a result, it was not possible to confirm whether the Internally Displaced Persons paid were Kenyan citizens.

Submission by the Accounting Officer

589) The Accounting Officer admitted that a list of names of some IDPs in Turkana was submitted without ID Numbers. As shared before there were strict instructions to banks only pay individuals who presented themselves to the banks personally with their Identity Card numbers. The department is in receipt of all the paid IDPs by Equity Bank and an analysis of the same shows that none of IDPs above has been paid and their money still forms a part of the KSh279,149,760.00 still held in the Internally Displaced Persons Account in Equity Bank.

Committee Observations and Findings

590) The Committee observed and found that:

1) The KSh279, 149, 760.00 was still held in the Internally Displaced Persons Account in Equity Bank; and
2) The Committee marked the matter as resolved.

Committee Recommendation

591) The Committee recommended that:

The matter be resolved.

192.2 Payments to Internally Displaced Persons with Duplicate Names

592) Examination of the list of Internally Displaced Persons from sixteen counties submitted for audit revealed that payments totalling KSh.17,800,000 were made to Internally Displaced Persons with duplicate names. Further, for every duplicate name, only one name matched with the identification card number provided, while the other similar name whose identification card number provided was related to a different person as verified in the National Registration Bureau database.

593) Consequently, the validity and propriety of the payments amounting to KSh.17,800,000 could not be confirmed.

Submission by the Accounting Officer

594) The Accounting Officer admitted that Internally Displaced Persons from sixteen counties submitted for audit revealed that payments totalling KSh.17,800,000.00 were made with duplicate names. As stated earlier in previous responses, IDPs and indeed many Kenyans do share names but not ID numbers. After receiving the list of the paid IDPs the management analyzed all paid IDPs against the names in the list and found out that no individual with same ID number or Account number has been paid twice. The department has added a column for the Account Number and a Comments Column for ease of reference. Some of these individuals have not been paid to-date due to the various reasons shown alongside the names. The Department has written to KCB to give a list of the IDPs paid in the Financial Year 2017/2018 and together with analysis will be shared to the Committee.

Committee Observations and Findings

595) The Committee observed and found that:

1) The matter had been responded to satisfactorily; and
2) The matter had been as resolved.

Committee Recommendations

596) The Committee recommended that:

The matter be resolved.

192.3 Payment to Non-existing Internally Displaced Persons

597) Examination of a sampled list of Internally Displaced Persons' national identity card numbers revealed that payments amounting to KSh.250,000 were made to Internally Displaced Persons whose national identity card numbers provided did not exist in the database of National Registration Bureau. Consequently, the validity and propriety of the payments amounting to KSh.250,000 could not be confirmed.

Submission by the Accounting Officer

598) The Accounting Officer admitted that payments amounting to KSh.250,000.00 were made to Internally Displaced Persons. These are not non-existing IDPs but they are genuine IDPs registered using waiting cards issued by National Registration Bureau awaiting replacement of lost ID Cards. These individuals still remain unpaid.

Committee Observations and Findings

599) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to payment to non-existing Internally Displaced Persons was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

600) The Committee recommended that:

The matter be resolved.

193. Bank Balances

601) The statement of financial assets and liabilities as at 30 June 2018 reflect bank balance totalling KSh.799,889,432 and as disclosed in Note 5A to the financial statements. However, the cashbook provided for audit review was incomplete and had not been updated with some transactions in bank statements amounting to KSh.17,804,212. Further, the board of survey report on cash and cash and bank balances as at 30 June 2018 was not made available for audit review. In the circumstances, the completeness and accuracy of bank balance of KSh.799,889,432 as at 30 June, 2018 could not be confirmed.

Submission by the Accounting Officer

602) The Accounting Officer admitted that the statement of financial assets and liabilities as at 30 June 2018 reflects bank balance totaling KSh.799,889,432. He reported that the cash book was updated and the Board of survey carried out as required**.**

Committee Observations and Findings

603) The Committee observed and found that:

1) The Committee observed that the State Department has made reconciliations and relevant documents have been availed and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendation

604) The Committee recommended that:

The matter be resolved.

194. Imprests and Advances

605) The statement of financial assets and liabilities as at 30 June 2018 reflects imprests and advances balance of KSh.71,960,000. As disclosed in Note 5B to the financial statements, the outstanding advances relates to Authority to Incure Expenditures (AIEs) given to County Commissioners of Mandera, Nakuru and Bomet in 2014/2015 financial year for onward transmission of the funds to the beneficiaries. However, the imprests and advances had not been accounted for as of 30 June 2018.

Submission by the Accounting Officer

606) The Accounting Officer admitted that the statement of financial assets and liabilities as at 30th June 2018 reflects imprests and advances balance totalling KSh.71,960,000.00. He reported that this amount remains outstanding to date. However, the State Department has continued to request for expenditure returns from the current County Commissioners from the three counties

Committee Observations and Findings

607) The Committee observed and found that:

1) The imprest and advances amounting to KSh.71,960,000 had not been surrendered; and
2) The matter therefore remained unresolved.

Committee Recommendation

608)The Committee recommended that:

> **Within three months of the adoption of this report, the Accounting Officer should take action to recover the full amount from the salary of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.**

195. Late Submission of Financial Statements

609)Section 84 (3) of the Public Finance Management Act, 2012 states that, not later than three months after the end of each financial year, the administrator of a national public fund shall submit the financial statements prepared under Section 84 (1) and (2) to the Auditor General. However, the financial statements of the National Humanitarian Fund for the year ended 30 June 2018 were submitted to the Auditor General on 20 November 2018, one month and twenty days after the statutory deadline.

Submission by the Accounting Officer

610)The Accounting Officer admitted that the financial statements of the National Humanitarian Fund for the year ended 30th June 2018 were submitted to the Auditor General on 20th November 2018. He reported that there was a challenge in accessing documents and data relating to the National Humanitarian Fund due to downsizing of the Department, expiry of the term of the Committee Members and transfer of the Secretariat staff to other Ministries.

611)However, these challenges have been addressed and subsequent financial statements and other issues addressed on time.

Committee Observations and Findings

612)The Committee observed and found that:

1) The financial statement submitted by the Accounting Officer has since been reviewed and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendations

613)The Committee recommended that:

1) **Accounting Officers must at all times ensure that he/she submits the financial statements of the fund pursuant to Section 84 (3) of the Public Finance Management Act, 2012 which provides that, not later than three months after the end of each financial year, the administrator of a national public fund shall submit the financial statements prepared under Section 84 (1) and (2) of the PFM Act 2012.**
2) **The matter be resolved.**

196. Failure to Provide Documents for Audit Review

614) Despite requests for documents and records pertaining to the National Humanitarian Fund, the management failed to provide for audit review Internally Displaced Persons (IDPs) status report as required under Section 13(g) of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act. No justification was provided for the failure to provide the status report.

Submission by the Accounting Officer

615) The Accounting Officer admitted that no IDPs status report is available. The preparation of the IDP status report was a function of the IDPs' representative committee whose term expired in November 2017 and it was not renewed. There was therefore no committee in place to carry out this function.

Committee Observations and Findings

616) The Committee observed and found that:

1) The term of Representatives Committee expired and was yet to be renewed; and
2) The matter therefore remained unresolved.

617) <u>The Committee observed that Paragraph 197 on effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

6.0. THE STATE DEPARTMENT FOR CORRECTIONAL SERVICES

FINANCIAL STATEMENTS FOR VOTE 1023

Ms. Zainabu Hussein, the Accounting Officer for State Department of Correctional Services (Vote 1023) appeared before the Committee on 20th February 2020,3rd November, 2020 and2nd February, 2021 to adduce evidence on the Audited Financial Statements for State Department of Correctional Services (Vote 1023) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. Mr. Wycliffe O. Ogallo - Commissioner-General, Prisons
2. Mr. Phillip M. Gathuya - Chief Finance Officer
3. Mr. Mwangi Daniel - Heads of Accounts
4. Ms. Mary W. Mbau - Director Probation Services
5. Mr. Mathew N. Kimunzi - Assistant Commissioner of Prison
6. Mr. Dickson J. Ominde - Supritendent of Prisons
7. Mr. Joel K. Ngolekeng - SCMC
8. Mr. Wilfred Amono - Human Resource
9. Mr. Wycliffe Mutuwa - Internal Audit
10. Mr. Patrick Aranduh - Prisons
11. Mr. Shadrack K. Kavutai - Probation Officer
12. Mr. Richard O. Ombina - Prisons
13. Mr. Patrick Kariri - Prisons
14. Ms. Wairimu Thangate - Prisons
15. Mr. Baptista Mutura - SDCS
16. Mr. John M. Karanja - Administration
17. Mr. Nelius Njoroge - PS Office

Basis for Qualified Opinion

197. Use of Goods and Services

618) The statement of receipts and payments for the year ended 30 June 2018 reflects expenditure totaling KSh.8,512,721,265 in respect of use of goods and services and as summarized and disclosed in Note 3 to the financial statements. The audit has revealed the following irregularities and anomalies as regards the expenditure:

197.1 Food and Rations Paid for but not Accounted for

619) Included in Note 3 to the financial statements for the year ended 30 June 2018 under the use of goods and services is an expenditure of KSh.4,074,213,142 for specialized materials. The expenditure includes an amount of KSh.69,892,400 which the State Department for Correctional Services paid to various suppliers for

supply of food and rations to six Prisons within Nairobi. However, during an audit verification exercise undertaken in the month of October 2018 delivery, receipt and taking on charge of the food and rations could not be traced in the records maintained at the Prisons. As a result, the propriety of the expenditure of KSh.69,892,400 on food and rations cannot be confirmed.

Submission by the Accounting Officer

620) The Accounting Officer admitted that during the Financial Year ended 30th June, 2018 the State Department for Correctional Services paid KSh.69,892,400 to various firms for supply and delivery of food and ration to various penal institutions. The audit revealed that the goods had not been taken on charge at the time of the audit review.

621) The State Department has instituted corrective administrative measures to streamline the procurement process by providing supplies contracts, awarding to the lowest evaluated bidder, introducing serialized prison book seven to record supply receipts and ensuring that the station based budget is based on the number of inmates with a view to controlling expenditures.

Committee Observations and Findings

622) The Committee observed and found that:

1) It could not confirm from the response by the Accounting Officer whether food ration worth KSh.69,892,400 was delivered; and
2) The matter, therefore, remained unresolved.

Committee Recommendations

623) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017/2018)should be surcharged for failure to account for food ration worth KSh.69,892,400 and committing offenses of financial misconduct pursuant to section 197 (1) (k) and (l).**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

197.2 Clothing Materials Paid for but not Delivered

624) The State Department for Correctional Services ordered for supply and delivery of 32,000 metres of blue stripped material 60” wide, 100% cellulose from a supplier Services vide Local Purchase Order No. 2774906 dated 26 September,2017 for KSh.18,400,000. The firm was paid the total amount of KSh.18,400,000, vide payment voucher number 4352 dated 8 May, 2018. However, an audit verification exercise carried out at the Quarter Master on 8 October 2018 revealed that only 30,000 metres of the clothing materials were delivered and taken on charge. The balance of 2000 metres valued at KSh.1,150,000 were paid for but not delivered resulting to loss of public funds. Consequently, the propriety of the expenditure of KSh.1,150,000 in respect of undelivered clothing materials cannot be confirmed.

Submission by the Accounting Officer

625) The Accounting Officer admitted that the State Department for Correctional services ordered for supply and delivery of 32,000 meters of blue striped material 60" wide 100% cellulose from Ms Liberty Professional Services vide Local purchase order No. 2774906 dated 26/09/2017 amounting to Kes.18,400,000.00. The audit report indicates that supply and delivery made was for 30,000 meters instead of 32,000 meters which mean there was a variance of 2000 meters less costing KSh.1,150,000.00.

626) However, according to the documents in department's possession (delivery note No.589, Invoice, S13 and Departmental Receiving and Inspection Committee certificate) indicate that 32,000 meters of the materials were delivered as per LPO No. 9316103. It was noticed by the Department that there was an entry error in ledger cards and the same was rectified. The error correction was availed for audit verifications and there was no loss of funds.

Committee Observations and Findings

627) The Committee observed and found that:

1) The documents had since been provided and reviewed; and
2) The Committee marked the matter as resolved.

Committee Recommendation

628) The Committee recommended that:

The matter be resolved.

197.3 Unsupported Payments to Staff Through Imprests and Expenditure Claims

629) During 2017/2018 financial year, the State Department for Correctional Services made payments totalling KSh.118,642,950 to various members of staff through imprests to undertake some activities or as refund claims for activities already undertaken. However, the following anomalies were observed:

i. Some officers received payments on behalf of others. No explanation has been given for failure to issue imprest to each officer individually after making formal application.
ii. Further, the officers on whose behalf imprests were taken did not sign the payment schedules to confirm receipt of the money.
iii. Personal employment numbers of the officers were not indicated against the names of payees in the payment schedules, thus creating doubts as to whether the names were genuine.
iv. Attendance registers of worKShops or training were not attached as evidence that the workshops took place.

630) In view of the above observations, the validity and propriety of the payments amounting to KSh.118,642,950 could not, therefore, be confirmed.

Submission by the Accounting Officer

631) The Accounting Officer admitted that the State Department processed payments amounting to KSh.118,642,950.00to members of staff through group imprests for activities undertaken in the course of the financial year. Group imprests were issued where the activities involved some participants from field stations who were not defined in the payment platform- IFMIS system and in other circumstances where some participants had Front Office Savings Accounts (FOSA). FOSA accounts are not linked with Central Bank of Kenya (CBK) internet banking but are agents who operate through the cooperative bank. The group imprests were accounted for by the entitled officers. Payment vouchers were availed for audit verification.

Committee Observations and Findings

632) The Committee observed and found that:

1) The Committee observed that the payment vouchers have since been provided and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendations

633) The Committee recommended that:

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

197.4 Facilitation of Counter Violence and Radicalization Program

634) Included in Note 3 to the financial statements for the year ended 30 June 2018 under the use of goods and services is an expenditure of KSh.331,170,951 relating to other operating expenses. This amount includes KSh.42,682,500 which the State Department for Correctional Services paid for facilitation of counter violent extremism and radicalization program in the Prisons. The program was to be implemented by a team of officers drawn from Prisons Headquarters and the State Department's Headquarters in various counties.

635) However, it was observed that the payment vouchers were not supported with relevant information and documents such as names of the participants and personal/national identity card numbers; evidence of per diem payments; invoices for conference and hotel facilities; and evidence of travel (work-tickets and air/bus tickets). In the circumstances, it has not been possible to confirm the propriety of the cash payments amounting KSh.42,682,500.

Submission by the Accounting Officer

636) The Accounting Officer admitted that the payments amounting to KSh.42,682,500.00 relate to confidential expenses on monitoring of extreme violence and radicalization across penal institutions. This nature of expenditure is accounted for in accordance to Section 93(18) of the Public Finance Management Act- Regulations 2015.

637) The payments were used for the intended purpose and relevant documents have been availed for audit verification.

Committee Observations and Findings

638) The Committee observed and found that:

1) The required certificate under Section 93(18) of Public Finance Management Act-Regulations 2015 was not provided; and
2) The matter therefore remained unresolved.

Committee Recommendations

639) The Committee recommended that:

1) **Within three months upon adoption of this report, the Accounting Officer should provide the certificate pursuant to Section 93(18) of Public Finance Management Act - Regulations 2015. Failure to provide the certificate to the Auditor General, the Accounting Officer during the financial year under review (2017/2018) should be surcharged for failure to account for expenditures worth KSh.42,682,500.00 and committing offenses of financial misconduct pursuant to section 197 (1) (k) and (l).**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The matter remained unresolved.**

197.5 Unsupported Cash Payments for Prison Officers Mess

640) Included in Note 3 to the financial statements for the year ended 30 June 2018 under the use of goods and services are expenditure of KSh.365,756,271 and KSh.114,320,276 relating to training and hospitality, supplies and services, respectively. The State Department for Correctional Services made cash payments relating to Prison Officers Mess - Nairobi West totalling KSh.13,490,850 for conference charges, lunches, tea and snacks for various activities undertaken at the facility during the financial year and charged the amount to training and hospitality, supplies and services.

641) These cash payments were claimed to have been made to members of staff who had submitted claims for refund of money already spent for the aforementioned activities and which they claimed to have spent at the officers' mess. No reasons have been given for failure to transfer funds directly to Prison Officers Mess instead of giving cash to staff. Further, there was no record to confirm that the various activities were undertaken. In the circumstances, it has not been possible to confirm the propriety of the expenditure of KSh.13,490,850.

Submission by the Accounting Officer

642) The Accounting Officer admitted that officers were issued with imprest to cater for lunches, tea and snacks for various activities at Prison officers' mess during the year

under review. The officers' mess was the venue for prisons staff from the various stations across the country when summoned by the Prison Headquarters for briefs in the Department. The mess catered for the officers' welfare and billed the total amount for settlement by the officers jointly from their entitlement. Payment vouchers and support documents were availed for verification.

Committee Observations and Findings

643)The Committee observed and found that:

1) The payment vouchers have since been availed and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendations

644)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The matter be resolved.**

198. Compensation of Employees

198.1 Irregular Payment of Allowances

645)Examination of payment records revealed that the State Department incurred expenditure totalling KSh.87,467,849 in form of various allowances as shown below:

No	Title	Amount	Response
1	Gratuity -Civil Servants	14,334,976.20	Service Contracts
2	Hardship Allowance	2,796,179.00	2016 2017 FINANCIAL YEAR
3	Inmate Allowance	262,555.00	2017 2017 FINANCIAL YEAR
4	Prison/Police Allowance	3,164,800.00	PS SERVICE CONTRACT & 2016 2017 F/Y
5	Top up House Allowance	28,323,382.00	PS SERVICE CONTRACT & 2016 2017 F/Y
6	Trainee Allowance	28,671,855.00	PC 9 REGIONS 2018 2019& 8,954,400 WITH KCB CG A/C
7	Board Allowance	9,914,102.00	BC&LB -MSPS 2/1A VOL XL (60) of 3 8 2010
	Total	**87,467,849.20**	

646)However, relevant documents in support of the payments have not been provided for audit review. In the circumstances, it has not been possible to ascertain the validity and propriety of the expenditure of KSh.87,467,849.

Submission by the Accounting Officer

647)The Accounting Officer admitted that the state department made payments totaling KSh.87,467,849.20 during the year under review. The payments were incurred in respect to gratuity payments, private motor vehicle allowance, trainee allowances and betting control and Licensing Board allowances. The payments are supported by relevant service contracts and circulars from the Ministry of State for Public Service and have been availed for audit verification.

Committee Observations and Findings

648)The Committee observed and found that:

1) The supporting documents in regard to Irregular payment of allowances of KSh.87,467,849.20 including payment vouchers have since been availed and verified;
2) The Accounting Officer, however, at the material time failed to ensure that he produced supporting documentations to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012. Further, he failed to provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015; and
3) The Committee marked the matter as resolved.

Committee Recommendations

649)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they produce supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The matter be resolved.**

199. Prepayments

650)IFMIS records show that payments amounting to KSh.27,800,630 were made by the State Department for Correctional Services to various institutions and individuals and posted in the ledger as prepayments. However, no documentary evidence has been provided to explain the nature of the payments and what they relate to. Consequently, it has not been possible to confirm the validity and propriety of the payments of KSh.27,800,630.

Submission from the Accounting Officer

651)The Accounting Officer submitted that the prepayments relate to advance payments by way of AIEs and imprests that are accounted for on completion of the activity that was intended to be funded by charging the relevant budget item. KSh.25,652,610 relates to AIEs issued to field stations in Kajiado, Makindu and Malindi while KSh.2,148,020.00 relates to temporary imprest which were accounted for.

Committee Observations and Findings

652) The Committee observed and found that the explanations and documents provided by the Accounting Officer were satisfactory; and marked the matter as resolved.

Committee Recommendations

653) The Committee recommended that:

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

200. Un-vouched Expenditure

654) Examination of expenditure records revealed that during the year under review, the State Department paid a total of KSh.174,989,039 to some staff and various suppliers.

655) Payment vouchers and documentation in respect of these payments have not been provided for audit examination. In the circumstances, it has not been possible to confirm the propriety of the payments amounting to KSh.174,989,039 to the staff and suppliers.

Submission by the Accounting Officer

656) The Accounting Officer admitted that the State Department processed payments amounting to KSh.174,561,539.30as observed during the audit. She reported that the payment vouchers and support documents have been provided for audit verification.

Committee Observations and Findings

657) The Committee observed and found that:

1) The supporting documents in regard to Un-vouched Expenditure of KSh.174,989,039.00 including payment vouchers have since been availed and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendations

658) The Committee recommended that:

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

201. Unsupported District Suspense

659) The accounts receivables balance of KSh.674,545,397 disclosed in Note 8 to the financial statements includes an amount of KSh.674,134,610 relating to district suspense. However, the district suspense balance has not been supported by verifiable source documents. As a result, it has not been possible to ascertain the

validity, completeness and accuracy of the amount of KSh.674,134,610 included in the accounts receivables.

Submission by the Accounting Officer

660) Accounting Officer admitted that the Statements of Assets and Liabilities reflect a KSh.674,134,610 related to the District suspense. An analysis of the final balance has been reconciled and the difference between receipts and payments in IFMIS and trial balance have been harmonized.

Committee Observations and Findings

661) The Committee observed and found that:

1) The difference between receipts and payments in IFMIS and trial balance had since been reconciled and trial balance harmonized; and
2) The Committee marked the matter as resolved.

Committee Recommendations

662) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

202. Prior Year Adjustments

663) The statement of assets and liabilities as at 30 June 2018 reflects a prior year adjustment of KSh.103,141,638 and as disclosed in Note 11 to the financial statements. The adjustment is explained in the notes as relating to the district data that was processed after 2016/2017 accounts had been prepared. However, analysis of the negative balance of KSh.103,141,638 has not been provided and therefore, it is not possible to ascertain the composition of the balance or what it represents.

Submission by the Accounting Officer

664) The Accounting Officer reported that an analysis has been done to reconcile the prior year adjustments and the difference between receipts and payments in IFMIS and trial balance have been harmonized.

Committee Observations and Findings

665) The Committee observed and found that the difference between receipts and payments in IFMIS and trial balance have been harmonized and reconciled; and therefore the matter had been marked as resolved.

Committee Recommendations

666) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

203. Pending Bills

667)Other Important Disclosures under Note 13 to the financial statements includes pending bills amounting to KSh.6,204,906,534 as at 30 June 2018 which were not settled in the year under review but carried forward to 2018/2019 financial year. Had these bills been settled and the expenditure charged to the account for 2017/2018, the statement of receipts and payments for the year ended 30 June 2018 would have reflected a deficit of KSh.6,129,122,944 instead of a surplus of KSh.75,783,590 now shown. Failure to settle bills in the year to which they relate adversely affects the following years' provisions to which they have to be charged.

Submission by the Accounting Officer

668)The Accounting Officer admitted that the State Department's pending bills as at 30th June, 2018 amounted to KSh.6,204,906,533.85. The pending bills are a carryover from various financial years due to inadequate budgetary provisions then. The amount of KSh.6,204,906,533 has been forwarded to the National Treasury pending bills closing committee for further guidance vide the State Department's letter to the National Treasury Ref No: SDC/SEC/PRIS/11/40 dated 28th June 2019.

Committee Observations and Findings

669)The Committee observed and found that:

1) The National Treasury Pending Bills Closing Committee had since finalized the pending bills verification exercise;
2) The settlement of the pending bills had since commenced albeit at a slow pace owing to the sheer amount of paperwork involved; and
3) The matter, therefore, remained unresolved.

Committee Recommendations

670)The Committee recommended that:

1) **Within two months upon adoption of this report by the House, the Accounting Officer must ensure that all the pending bills amounting to KSh.6,204,906,533 and duly verified are fully settled. A report on the same to be submitted to the National Assembly at the lapse of the aforestated two months duration.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis of Conclusion

204. Procurement of Goods and Services Through Direct Cash Purchases

671) The State Department procured goods and services from various suppliers through direct cash purchases totalling to KSh.27,699,330 during 2017/2018 financial year. However, suppliers of goods and services were paid in cash through temporary imprest issued to various officers. In addition, procurement procedures for identifying suppliers of the goods and services were not followed and the goods purchased through imprests were not inspected, certified and taken on charge contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

672) The Accounting Officer submitted that the explanation had been given to the Auditor General and documents provided for review and verification on this matter.

Committee Observations and Findings

673) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to procurement of suppliers of goods and services being in line with Section 48 of the Public Procurement and Asset Disposal Act, 2015 was persuasive;
2) The Accounting Officer, however, during the financial year under review (2017/2018) failed to ensure that all documents regarding procurement of suppliers of the goods and services in line with Section 48 of the Public Procurement and Asset Disposal Act, 2015are availed for audit review in line with provisions of Section 9(1) (e) of the Public Audit Act, 2015 at the time of audit; and
3) The Committee marked the matter as resolved.

Committee Recommendations

674) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

205. Payment for Goods and Services from Unregistered Suppliers

675) The State Department procured and paid for goods and services amounting to KSh.54,220,061 from various suppliers who had not been registered as required under Sections 56 and 57 of the Public Procurement and Asset Disposal Act, 2015. No reasons have been provided for this irregularity.

Submission by the Accounting Officer

676) The Accounting Officer submitted that the explanation had been given to the Auditor General and documents provided for review and verification on this matter.

Committee Observations and Findings

677) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to procurement of suppliers of goods and services being in line with Section 48 of the Public Procurement and Asset Disposal Act, 2015 was persuasive;
2) The Accounting Officer during the financial year under review (2017/2018) failed to ensure that all documents regarding procurement of suppliers of the goods and services in line with Section 48 of the Public Procurement and Asset Disposal Act, 2015 are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit; and
3) The Committee marked the matter as resolved.

Committee Recommendations

678) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

206. Wasteful Expenditure

207.1 Procurement of Seventy MK3112G Locks and Eighty-Eight 4L56 Locks

679) During the financial year 2015/2016, the State Department for Correctional Services procured seventy MK3112G locks for Naivasha Main G.K. Prisons and eighty-eight 4L56 locks for Kibos Main G.K. Prisons at a cost of KSh.18,900,000 and KSh.23,672,000, respectively totalling to KSh.42,572,000. The security locks were received in the stores vide Counter Receipt Voucher Nos. 8080010 and 8080009 dated 10 June, 2016. However, an audit verification undertaken on 1 October 2018 revealed that the security locks were still being held in the stores (Quarter Master-Nairobi). In the circumstances, value for money may not have been obtained in respect of the expenditure of 42,572,000 on locks which remained unused.

Submission by the Accounting Officer

680) The Accounting Officer submitted that the explanation had been given to the Auditor General and documents provided for review and verification on this matter.

Committee Observations and Findings

681) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to procurement of seventy MK3112G locks and eighty-eight 4L56 locks was persuasive;
2) The Accounting Officer, however, during the financial year under review (2017/2018) failed to ensure that all supporting documents regarding procurement of seventy MK3112G locks and eighty-eight 4L56 locks are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit; and
3) The Committee marked the matter as resolved.

Committee Recommendations

682)The Committee recommended that:

1) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
3) **The matter be resolved.**

207.2 Procurement of Firefighting All-Terrain Vehicles Water Based

683)The State Department for Correctional Services procured fifteen firefighting all-terrain vehicles water based at a total cost of KSh.11,886,570 from M/S Car Experts Ltd vide Local Purchase Order No. 1307895 dated16 June 2014.The firefighting vehicles were received vide Counter Receipt Voucher (S13) No. 7003667 on 25 June 2014 and distributed to various G.K. Prisons across the country. However, a copy of the contract for the supply of the vehicles was not provided for audit review.

684)Audit verification exercise carried out in the month of March 2018 revealed that all the fifteen fire fighting vehicles had never been used because they were supplied without the water tanks which are essential components of the vehicles. In the circumstances, value for money may not have been obtained in respect of the expenditure of KSh.11,886,570 on the firefighting all-terrain vehicles which have remained idle.

Submission by the Accounting Officer

685)The Accounting Officer submitted that the explanation had been given to the Auditor General and documents provided for review and verification on this matter.

Committee Observations and Findings

686)The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to procurement of firefighting all-terrain vehicles water based was persuasive;
2) The Accounting Officer, however, during the financial year under review (2017/2018) failed to ensure that all supporting documents regarding procurement of firefighting all-terrain vehicles water based are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit; and
3) The Committee marked the matter as resolved.

Committee Recommendations

687)The Committee recommended that:

1) **Accounting Officers at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three**

months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

2) **The matter be resolved.**

688) <u>The Committee observed that Paragraph 207 to 211 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

PRISON INDUSTRIES REVOLVING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

212. Non-current Assets

689) The statement of financial position as at 30 June, 2018 reflects total non-current assets balance of KSh.77,919,093. This differs with the balance of KSh.74,992,653 shown in the property, plant, and equipment movement schedule in Note 17 to the financial statements by KSh.2,926,440. In addition, the Prison Industries assets register shows that the Fund had non-current assets with total current value of KSh.91,774,309 as at 30 June 2017.

690) In the circumstances, it has not been possible to ascertain the completeness and accuracy of the non-current assets balance of KSh.77,919,093 reflected in the statement of financial position as at 30 June, 2018.

Submission by the Accounting Officer

691) The Accounting Officer Submitted that the above difference was caused by the amount of scrap machinery of KSh.2,926,440.00 which cannot be depreciated further. The scrap machineries are awaiting bonding.

Committee Observations and Findings

692) The Committee observed and found that:

1) The Accounting during the financial year under review (2017/2018) failed to ensure that required documents in support of non-current assets are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) However, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

693) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

213. Paymaster General (P.M.G.) Account

694) The statement of financial position as at 30 June, 2018 reflects a balance of KSh.175,987,430 against a Paymaster General Account as at 30 June 2018. This balance represents amounts held on behalf of the Fund in the former Ministry of Home Affairs Deposit Account and which was yet to be transferred to the Fund's new account as of 30 June 2018. However, no documentary evidence in the form of bank certificate or bank reconciliation statements of the said deposit account have been provided to support this balance.

695) Consequently, it has not been possible to confirm the existence, completeness and accuracy of the P.M.G. Account balance of KSh.175,987,430 as at 30 June, 2018.

Submission by the Accounting Officer

696) The Accounting Officer submitted that both Farms and Industries operate one bank account where all the revenues collected are deposited.

PMG BALANCES				
		INDUSTRIES	**FARMS**	**TOTAL PMG BAL**
2013/2014	Bal B/F 1st July 2013	119,965,675.51	56,021,755.07	**175,987,430.58**
2013/2014	Add revenue for (1st July - 30th Oct)	155,336,405.00	18,634,357.35	**173,970,762.35**
		275,302,080.51	**74,656,112.42**	**349,958,192.93**
Less: amounts transferred to Ministry of Interior & Coord fund account from MOHA.		(92,135,930.55)	(26,589,743.85)	**(118,725,674.40)**
Bal. as at 30th Oct 2013		**175,987,430.00**	**55,245,088.53**	**231,232,518.53**

697) During the financial year 2012-2013, books of account for both Prison Industries and Farms reflected the balance in the PMG as follows: -

Prison Industries	KSh. 119,965,675.51
Prison Farms	KSh. 56,021,755.00
Total	**KSh. 175,987,430.51**

698) This balance was not reconciled by the then Ministry of Home Affairs who was the administrator of the account. During the financial year 2013-14 the management of the fund was transferred to the Ministry of Interior and Co-ordination of National Government where KPS is currently domiciled. The deposit account was put on suspension between 1st July –and 30th October, 2013.

699) During this period, prison farms and industries were depositing revenue at the suspended deposits account. A separate bank account under the name Prison Industries Fund (PIF) was opened by the Ministry of Interior and Co-ordination of National Government on 3rd October, 2013.

700) As from 1st July, 2013 to 31st October, 2013 both prison industries and prison farms had generated and deposited revenue in the suspended MOHA Deposit Account as follows: -

Prison Industries	KSh. 155,336,405.00
Prison Farms	KSh. 18,634,357.35
Total	**KSh. 173, 970,762.35**

701) During the transfer of Prison farms and industries funds from MOHA to Interior and Co-ordination of National Government, reconciliation of the deposit account for the period July – October 2013 confirmed that both Prison Industries and Farms had deposited KSh.173,970,762.35. The amount transferred to the new prison industries fund account was KSh.118,725,674.40 only as tabulated below, leaving a balance of KSh.55,245,087.95.

Prison Industries	KSh. 92,135,930.55
Prison Farms	KSh. 26,589,743.85
Total	**KSh. 118,725,674.40**

The remaining balance not transferred to the new PIF Account is as below: -

Balance of revenue raised during 2013/2014	KSh. 55,245,087.95
PMG balance b/f 1st July, 2013	KSh. 175,987,430.51
Total	**KSh. 231, 232,518.46**

702) During the transfer of funds from MOHA to the Ministry of Interior and Co-ordination only KSh.118,725,674.40 was transferred to the new deposit account leaving balance of KSh.55,245,087.95 and the closing balance of KSh.175,987,430.51 as at 30th June, 2013 totaling to KSh.231,232,518.46 which was not transferred to the new Industries Fund account. The non- transfer, was effected by the reorganization of government in the financial year 2013/14 where the MOHA was merged with OP to form the new Ministry of Interior and Co-ordination of National government.

Committee Observations and Findings

703) The Committee observed and found that:

1) Both Farms and Industries deposited money in two separate accounts namely the Suspended Deposit account and Prison Industries Fund account;
2) Only KSh.118,725,674.40 was transferred from the Suspended Deposit Account to the new deposit account leaving balance of KSh.55,245,087.95 and the closing balance of KSh.175,987,430.51 as at 30th June, 2013 totaling to KSh.231,232,518.46 which was not transferred to the new Industries Fund account.;
3) The explanation given by the Accounting Officer and the supporting documents provided for verification were satisfactory, and
4) The Committee marked the matter as resolved.

Committee Recommendations

704) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

214. Cash in Transit

705) Included in the financial statements under cash and cash equivalents is a balance of KSh.30,318,827 in respect of cash in transit as at 30 June 2018. However, no documentary evidence has been provided to support this balance.

706) Consequently, it has not been possible to confirm the existence, completeness and accuracy cash in transit balance of KSh.30,318,827 as at 30 June 2018.

Submission by the Accounting Officer

707) The Accounting Officer admitted that the Statement of Financial position reflects a balance of KSh.30,318,827.00 against cash in transit as at 30th June 2018. This was revenue collected from sale of manufactured products receipted but not yet deposited to the fund account. The cash is being held up in unpaid payment vouchers which form part of pending bills from the recurrent vote payable to the fund bank account. The payment voucher was availed for perusal by the Committee.

Committee Observations and Findings

708) The Committee observed and found that:

1) The Accounting during the financial year under review (2017/2018) failed to ensure that required documents in support of no-current assets are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) However, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and

3) The Committee marked the matter as resolved.

Committee Recommendations

709) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

215. Creditors

710) The statement of financial position as at 30 June 2018 reflects a balance of KSh.188,239,335 against creditors. Analysis of this balance showing the details of the creditors including description, respective amounts due to them and period have not been provided for audit review.

711) As a result, the completeness and accuracy of the creditors balance of KSh.188,239,335 as at 30 June 2018 cannot be confirmed.

Submission by the Accounting Officer

712) The Accounting Officer admitted that the prison industries financial statements for the year 2017/2018 had a balance of KSh.188,239,335.00owed to creditors by the fund for supplies made. In the Financial year, Prison Industries acquired raw materials for production amounting to KSh.363,675,184. However, at the closure of the financial year, the closing stock was KSh.323,040,659.00.

Committee Observations and Findings

713) The Committee observed and found that:

1) The Accounting during the financial year under review (2017/2018) failed to ensure that required documents in support of no-current assets are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) However, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

714) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

216. Debtors

715)The statement of financial position as at 30 June 2018 reflects a balance of KSh.116,930,607 in respect of debtors. This balance is claimed to include an amount of KSh.116,852,847 and KSh.77,760 owed by government departments and private debtors, respectively. However, analyses of the balance showing each of the debtors and the amount due have not been provided for audit review. Further, no satisfactory explanation has been provided for failure to collect these outstanding debts.

In the circumstances, it has not been possible to confirm the validity and accuracy of the debtors' balance of KSh.116,930,607 as at 30 June, 2018.74

Submission by the Accounting Officer

716)The Accounting Officer admitted that the Statement of Financial position reflected a balance of KSh.116,930,607.00 in respect of debtors which included KSh.116,852,847.00 and KSh.77,760 owed by Government departments and private debtors, respectively as at 30th June 2018.

717)An analysis of the debtors has since been provided for audit review.

During the financial year 2018 2019 debtors amounting to KSh.40,947,836.00 have collected and demand letters written to the respective debtors by the State Department. The letters were availed for perusal by the Committee.

Committee Observations and Findings

718) The Committee observed and found that:

1) The Accounting during the financial year under review (2017/2018) failed to ensure that required documents in support of no-current assets are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) However, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

719)The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

217. Procurement of Raw Materials for Prison Industries Fund

720) Included in Note 14 to the financial statements under inventories are raw materials with a value of KSh.195,756,762 as at 30 June 2018. The value includes raw materials amounting to KSh.86,119,000 which the Prison Industries Revolving Fund had procured from various suppliers through the Government initiative of Access to Government Procurement Opportunities (AGPO) for various categories.

721) Examination of payment records and documents revealed that although the above suppliers were indicated to be in the categories under the Access to Government Procurement Opportunities (AGPO), the National Treasury certificates to confirm the actual status of the firms have not been provided for audit review.

722) Consequently, it has not been possible to ascertain compliance with the Government initiative of Access to Government Procurement Opportunities (AGPO) with regard to the procurement of raw materials amounting to KSh.86,119,000 or validity of the same.

Submission by the Accounting Officer

723) The Prison Industries revolving fund procures raw materials through the State Department for Correctional Services' annual tenders. The tender documents have been availed for audit verification.

Committee Observations and Findings

724) The Committee observed and found that:

1) The ccounting during the financial year under review (2017/2018) failed to ensure that required documents in support of no-current assets are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) However, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

725) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

726) <u>The Committee observed that Paragraph 217 on effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

PRISON FARMS REVOLVING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

218. Unreconciled and Unexplained Difference in P.M.G Cash Balance

727)The statement of financial position as at 30 June 2018 reflects a P.M.G cash balance of KSh.58,134,080 and as disclosed in Note 9 to the financial statements held in the Ministry's Deposit Account on behalf of the Fund. However, the Ministry's Deposit Account had a balance of only KSh.49,091,790 instead of KSh.58,134,080 as at30 June 2018. The resulting difference of KSh.9,042,290 has not been reconciled or explained. Consequently, it has not been possible to confirm the accuracy of the P.M.G cash balance of KSh.58,134,080.

Submission by the Accounting Officer

728)The Accounting Officer submitted that the statement of financial position reflects an amount of KSh.58,134,080.00 against P.M.G. This figure had been disclosed in the notes attached to the financial statements as the amount that was held in the Ministry's Deposits account on behalf of the fund. The Prison Industry Fund Account receives and pays for both Prison Farms and Industry. Attached are cash flow schedule from the financial year 2012/2013 to 2017/2018 detailing the amount of KSh.58,134,080.00.

Committee Observations and Findings

729) The Committee observed and found that:

1) The Accounting during the financial year under review (2017/2018) failed to ensure that required documents in support of no-current assets are availed for audit review in line with provisions of Section 9 (1) (e) of the Public Audit Act, 2015 at the time of audit;
2) However, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

730)The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

219. Credit Sales Balance

731)The statement of financial performance for the year ended 30 June 2018 reflects sales of KSh.228,302,006 which includes credit sales balance of KSh.80,572,895as disclosed in Note 2 under Summary of Significant Accounting Policies. However, details of the sales including a breakdown of the amount have not been provided for audit review. In the circumstances, it has not been possible to confirm the validity, completeness and accuracy of the sales figure of KSh.228,302,006 reflected in the statement of financial performance for the year ended 30 June 2018.

Submission by the Accounting Officer

732)The Accounting Officer admitted that the statement of financial performance reflected sales balance of KSh.228,302,006 which included credit sales balance of KSh.80,572,894.55 as analyzed below:

Cash sales as at 30th June 2018	Kes	147,729,111.79
Credit sales as at 30th June 2018	Kes	80,572,894.55
Grand total sales	**KSh.**	**228,302,006.00**

Committee Observations and Findings

733) The Committee observed and found that:

1) The Committee observed that the Accounting during the financial year under review (2017/2018) failed to ensure that required documents in support of no-current assets are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) Howver, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

734)The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

220. Suspense Account

735)The statement of financial position as at 30 June 2018 reflects a balance of KSh.5,809,155 in the suspense account. However, the balance has not been supported with analysis and verifiable source documents contrary to regulation 107(1) of the Public Finance Management (National Government) Regulations 2015.

736)Consequently, it has not been possible to confirm the nature, validity, completeness and accuracy of the suspense balance of KSh.5,809,155.

Submission by the Accounting Officer

737)The Accounting Officer admitted that the Prison Farm Fund annual report and financial statement for the year ended on 30th June, 2018, reflects a suspense account of KSh.5,809,155.33. The suspense was due to unavailability of records from District Treasuries on returned balances of AIE funds issued to stations which were not spent at the closure of the financial years. Since these returns are made direct to the National Treasury, by the district treasuries the balances are not captured in the fund final statement and therefore affect the overall balance sheet. The balances have been carried forward for many years since the establishment of the fund in 1993.

Committee Observations and Findings

738) The Committee observed and found that:

1) The Accounting Officer during the financial year under review (2017/2018) failed to ensure that required documents in support of no-current assets are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) However, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

739) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

221. Fixed Assets

740) The statements of financial position as at 30 June 2018 reflects total fixed assets balance of KSh.30,669,201. This does not agree with the balance of KSh.29,572,901 shown in the fixed assets movement schedule, resulting in unexplained and unreconciled difference of KSh.1,096,300.

741) In addition, an examination of fixed assets register revealed a balance of KSh.32,698,600 as at 30 June 2018. No explanation has been given for the differences between the three sets of records. In the circumstance, it has not been possible to ascertain the completeness and accuracy of the fixed assets balance of KSh.30,669,201 reflected in the statement of financial position as at 30 June 2018.

Submission by the Accounting Officer

742) The Accounting Officer admitted that the financial position statement reflected fixed asset balance of KSh.30,667,201.41 which differs with KSh.29,572,901.00 as shown in the Fixed Assets movement schedule. The difference was caused by a balance of scrap machinery of KSh.1,096,300.00 which cannot be depreciated further.

Committee Observations and Findings

743) The Committee observed and found that:

1) The Accounting Officer during the financial year under review (2017/2018) failed to ensure that required documents in support of no-current assets are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;

2) However, the explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

744) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The matter be resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

222. Failure to Achieve Budgeted Revenue and Expenditure Targets

745) The statement of comparison of budget and actual amounts for the year ended 30June, 2018 reflects budgeted revenue amounts of KSh.246,300,000 while the actual revenue amount realized was KSh.147,729,112 resulting in a shortfall of KSh.98,570,888 or 40% of the budgeted revenue.

746) In addition, while the budgeted expenditure was KSh.234,750,000, the actual expenditure amounted to only KSh.130,699,065 or 56% of the budgeted amounts. This is an indication that public resources were not effectively used and the Fund, therefore, did not achieve a significant proportion of its planned goals during the financial year ended 30 June 2018.

Submission by the Accounting Officer

747) The Accounting Officer admitted that the Prison Fund had budgeted revenue amounts of KSh.246,300,000.00 while the actual revenue amounted to KSh.147,729,111.79 resulting to a difference of KSh.98,570,888.21. Budgeted expenditure amounted to KSh.234,750,000 while the actual expenditure was KSh.130,699,065.00, resulting to a difference of KSh.104, 050,935.00.

748) Farming activities were affected by uncertain weather conditions all over the country and invasion of fall army worms in the maize growing areas hence actual expenditure of KSh.130,699,065.00 resulted to collection of actual revenue amounting to KSh.147,729,111.79.

Committee Observations and Findings

749) The Committee observed and found that:

1) The explanation given by the Accounting Officer and the documents provided for verification were satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

750) The Committee recommended that:

The matter be resolved.

751) The Committee observed that Paragraph 223 to 224 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

7.0. STATE DEPARTMENT FOR DEVOLUTION

FINANCIAL STATEMENTS FOR VOTE 1032

Mr. Charles Sukuli, the Principal Secretary and Accounting Officer for State Department of Devolution (Vote 1032) appeared before the Committee on 11th June 2020 to adduce evidence on the Audited Financial Statements for State Department of Devolution (Vote 1032) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Ms. Kula H. Hache - Secretary Administration
2. Ms. Jackline Mogeni - Chief Executive Officer CoG
3. Ms. Angelline Hongo - Director, Inter-Governmental Relations
4. Mr. Johnson Njuguna - Assistant Accountant General
5. Ms. Sarah K. Kegandi - Chief Finance Officer
6. Ms. Emmy Mmbwanga - IDEAS Coordinator
7. Mr. Moses M. Macharia - Senior Accountant
8. Ms. Joyce Jepkoech - Senior Accountant

225. Unexplained Adjustments

752) The financial statements submitted on 29th September 2018 was amended and a revised set of financial statements provided. However, adjustments explaining the movements in the two (2) accounts as indicated below have not been provided.

Account Name	Initial Balance KSh	Final Balance KSh	Difference KSh
Proceeds from	0	407,000.00	407,200.00
Sales of Assets	24,546,987	34,050,501.00	9,503,514.00

753) Under the circumstances, the accuracy of the financial statements for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

754) The Accounting Officer admitted that the financial statement was amended and reflected the following adjustments**:**

i) Proceeds from Sale Assets amounting to Ks 407,200.00

755) An adjustment was made in the revised and submitted Financial Statement under proceeds from sale of assets, amounting to KSh.407,200.00. This amount relates to sale of obsolete assets which was erroneously deposited in the Ministry’s deposit account. Consequently, this amount had been omitted in the total receipts under receipts and payments and had instead been included in the Deposit account balance. An adjustment was therefore effected to correct this error in the financial statement. The funds were subsequently transferred to the National Treasury as revenue.

ii) Bank Balances KSh9,503,514.00

756) An adjustment was made in the revised Financial Statement to disclose an amount of KSh9,503,514.00 which represent unspent Revenue balance for PE1(Program Estimate 1)under Instrument for Devolution advice and Support (IDEAS) project.

757) The Accounting Officer Reported that as per IPSAS requirement on disclosures, the State Department is required to disclose all the bank balances and cash held and controlled by the Ministry. This disclosure was to ensure the IDEAS bank balances is reflected in the Ministry financial statement at the end of the year.

758) The Accounting Officer stated that the disclosure does not affect the expenditure level of the Ministry as a separate financial statement is prepared for IDEAS program.

Committee Observations and Findings

759) The Committee observed and found that:

1) The Committee observed that the payment voucher, journal voucher and bank statement had been belatedly confirmed for the adjustment to correct the error in the financial statement and further confirmed for the adjustment to correct the revenue in the IDEAS project; and
2) The Committee marked the matter as resolved.

Committee Recommendations

760) The Committee recommended that:

1) **Accounting Officers MUST at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers MUST at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers MUST at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

226. Cash and Cash Equivalents

761) The statements of financial assets reflect cash and cash equivalents balance in bank balances held under Instruments for Devolution Advice and Support (IDEAS) Project as at 30 June 2016 amounting to KSh.9,503,514.00 which was processed as a single adjustment to the cash and cash equivalents. However, it is clearly evident that the transactions through this particular bank account for the year ended 30 June 2018 have not been accounted for in the financial statements thereby making them incomplete. This casts doubt on the accuracy of the financial statements for the year ended 30 June 2018 as the receipts giving rise to the balance in the IDEAS Project bank account have been captured in the accounting records.

762) Under the circumstances, the accuracy of the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

763) The Accounting Officer submitted that it was true that the statement of financial assets reflects cash and cash equivalents balance in bank held under Instruments for Devolution Advice and Support (IDEAS) project as at 30th June 2020 amounting KSh.9,503,514.00. The amount of KSh.9,503,514.00 relates to the bank balances held in the IDEAS Project Account.

764) Disclosure of all bank balances held by the State Department is a requirement of IPSAS and hence the disclosure was a necessary requirement. However, the IDEAS Project prepares a separate set of its financial Statements and therefore the transactions of the Project do not form part of the financial Statements for the State Department.

Committee Observations and Findings

765) The Committee observed and found that:

1) The journal voucher had been belatedly confirmed for the adjustment to correct the revenue in the IDEAS project; and
2) The Committee marked the matter as resolved.

Committee Recommendations

766) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

227. Accounts Receivable

767) The statement of assets and liabilities reflect an account receivable of KSh.663,520.00 out of which an amount of KSh.544,820.00 is in respect of District Suspense amounts dating back to financial year 2015/2016 which has not been cleared to date. Further, the accounts receivables balance of KSh.663,520.00 as at 30 June 2018 includes an amount of KSh.118,700.00 relating to outstanding imprest as detailed on note 12 to the financial statements. However, this amount has been outstanding since the financial year 2015/2016 and the officer holding the imprest is no longer in the service of State Department for Devolution, therefore recoverability is uncertain.

768)Consequently, the validity and recoverability of the accounts receivable balance of KSh.663,520.00 could not be confirmed.

Submission by the Accounting Officer

769)The Accounting Officer admitted that the statement of assets and liabilities reflect an account receivable of KSh663,520.00 comprising the following:

i) District suspense KSh544,820.00

770)The amount included in the account receivables of KSh.544,820.00 relates to AIEs issued to the various Deputy County Commissioners in FY 2015/2016 for transport of relief food in the sub counties and whose expenditure returns to support the resultant expenditure had not been received by the department at the reporting date. The State Department has written to respective Districts to submit return of expenditure and surrender any unspent balances.

ii) Outstanding Imprest KSh118,700.00

771)The Accounting Officer Submitted that the outstanding imprest amounting to KSh118,700.00 was issued to an officer for local travel on official duties. The officer was transferred from the Ministry to the ministry of interior and Coordination of National Government before surrendering the imprest. The officer has since accounted for the full outstanding amount of imprest to the state department of Devolution.

Committee Observations and Findings

772) The Committee observed and found that:

1) The Accounting Officer had written letters to the respective District Commissioners to submit returns for the AIEs issued. However, the returns have not yet been submitted;
2) The Miscellaneous receipt voucher and cashbook entry for the cash surrender had been confirmed;
3) In addition, the Accounting Officer had taken measures to reform the Relief Food Delivery Program and Reporting Mechanisms by developing a Standard Operating Procedure – SOP which was in progress. A concept paper on the said SOP was provided to the Committee for perusal; and
4) The Committee marked the matter as resolved.

Committee Recommendations

773)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the**

Public Audit Act, 2015;

4) **The matter be resolved.**

228. Prior Year Adjustments

774) The statements of assets and liabilities as at 30 June 2018 reflects prior year adjustments of KSh.37,987,738.00 in respect of current year and KSh.180,997,512.00 in respect of the previous year. However, the reason for the prior year adjustments and the documentation in support of the adjustments has not been provided for audit scrutiny. Further, the treatment does not satisfy the requirements of IPSAS on "Accounting Policies changes in Accounting Estimates and Errors" which require restatement of the figures in the year the error first occurred except when it is impracticable and the fact MUST be disclosed.

775) Under the circumstances, the accuracy and validity of the adjustments as presented and that of the financial statements for the year ended 30 June 2018 cannot be ascertained.

Submission by the Accounting Officer

776) The Accounting Officer admitted that the statement of assets and liabilities as at 30th June reflected prior year adjustments of KSh37,987,738.00 in respect of current year and KSh180,997,512.00 in respect of previous period.

777) The Accounting Officer submitted that *IPSAS 3 on* '*Accounting policies changes in estimates and errors' r*equires the restatement of the figures in the year the adjustment applies. However, *IPSAS 3(49)limitations of retrospective restatement* allow for the restatement of opening balances of assets and liabilities for the earliest period which the retrospective restatement is practical (which may be current period)

778) He stated that these amounts of KSh37,987,738.00 relates to balances which were surrendered back to the National treasury in the current year. It was therefore not possible to make adjustments in the years the bank balances related to and this explains the reason of effecting prior year adjustment in the financial statement in the current period. The breakdown of money transferred to the National treasury is as shown below and as supported with the annexures attached.

Account	**Amount**	**Comments**
Recurrent Bank Balance	19,921,301	Balance at the end of FY 2017/18
Development Bank balance	16,859,734	Balance at the end of FY 2017/18
Surrendered District Suspense	1,122,203	Unspent AIE from districts
Imprest	84,500	Recovered imprest
Totals	**37,987,738**	

Committee Observations and Findings

779) The Committee observed and found that:

1) The relevant IPSAS 3(49) on retrospective reinstatement had been attached together with a breakdown of the balances surrendered to Treasury;
2) The explanation given by the Accounting Officer on why the adjustments were not done earlier as per the standards was satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

780) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

229. Pending Bills

781) The financial statements at note 16 (1), note 16 (2) and note 16 (3) reflect pending bills for suppliers, staff and due to National Government entities amounting to KSh.78,805,453.00 KSh.728,271.00 and KSh.26,981,088 respectively. Failure to settle bill during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they have to be charged. Had the bills been paid and expenditure charged to the accounts for the year 2019/2018, the statement of receipts and payments for the year would have reflected a deficit of KSh.105,951,359.00 instead of the net surplus of KSh.563,453.00 Further, the pending bills have not been supported as required.

782) In addition, the pending bills as at 30 June 2017 stood at KSh.3,296,627,373.00 while the balance as at 30 June 2018 was KSh.105,951,359.00 The movement of KSh.3,190,676,014.00 has not been explained neither has it been supported by any payments.

783) Included in the pending bills is an amount of KSh.19,208,963.00 in respect of assets procured during the year under Kenya Devolution Support Programme. However, the identity and details of the assets procured were not provided as there was no fixed assets register in place. The list of assets acquired during the year has not been disclosed in the financial statements as required by the Public Sector Accounting Standard Board. In view of the foregoing, the accuracy, the validity, completeness and propriety of the pending bills of KSh.105,951,359.00 as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

784) The Accounting Officer admitted that the financial statement at note 16 (1), note 16 (2) and note 16 (3) reflect pending bills for suppliers, staff and due to National Government Entities amounting KSh.78,805,453.00 KSh.728,271.00 and KSh.26,981,088.00 respectively. The revised net budget for the State Department in 2017/2018 Financial Year was KSh.8,341,886,630 but the State Department received exchequer issue totaling KSh.5,246,385,510.00 resulting to an exchequer under-issue of KSh.3,095,501,120.00. The reported pending bills were incurred during the financial year 2017/2018 but due to exchequer shortfall, the bills could not be paid.

785) The Accounting Officer confirmed that all pending bills incurred in the FY 2017/2018 totaling KSh.105,951,359.00 were subsequently paid as first charge against FY 2018/2019 budget. Copies of proof of payment were provided for perusal by the Committee.

786) The Accounting Officer also admitted that pending bills as at 30th June 2017 were KSh.3,296,627,373.00 while the reported bills as at 30th June 2018 were KSh.105,951,359.00 resulting to an unexplained movement of KSh.3,190,676,014.00.

787) The Accounting Officer further clarified that the pending bills as at end of FY 2016/2017 was totaling KSh.3,296,627,373.00. This included historical pending bills of KSh.3,286,465,791.49 and pending bills incurred during the year F/Y2016/17 totaling KSh.10,161,582 which were subsequently paid in the following financial year - 2017/2018. The reported pending bills of KSh.105,951,359.00 were incurred in the FY 2017/2018 which was paid in the FY 2018/2019 as first charge. Therefore, the historical pending bill of KSh.3,286,465,791.49was inadvertently omitted in the 2017/2018 financial statements disclosure notes.

788) Analysis of the outstanding historical pending bills of KSh.3,286,465,791.49 is shown below:

S/No.	Supplier/Creditor	Description/Purpose	Amount (KSh)
1	Various County Governments	CILOR (Contribution In Lieu of Rates) payable to the counties.	2,929,909,303.00
2	Kenya Railways Corporation	Sale of Land for Muthurwa open air market	105,000,000.00
3	Taib Ali Taib	Legal case on irregular Dismissal of Ali Taib of mayor of Mombasa.	10,171,941.00
4	Spencon Kenya Limited	Laying of sewerage line in Mombasa municipality in the year 2010.	233,268,713.00
5	David Mereka	NBI CMCC NO.3919 of 2012. DAVID Mereka VS John Ngaruiya, Ministry of	8,115,834.50

		Local Government and others.	
		Total	**3,286,465,791.50**

789) The KSh.3,286,465,791.50 relate to historical pending bills, whose status is explained as follows;

a) In the Financial year 2018/2019 the following pending bills were paid:
   i) Bills due to Taib Ali Taib of KSh10,171,941.00
   ii) Amount payable to David Mareka of KSh8,115,834.50
b) Outstanding bill to Kenya Railways Staff Benefit Retirement Scheme of KSh.105,000,000.00.
c) Spencon Kenya Limited of KSh.233,268,713.00. The Bill occurred as a result of works undertaken by the firm in laying of the sewage line in Mombasa Municipality. A dispute occurred to a resulting of an arbitration claim by the above firm against the Ministry of Devolution.

790) The bill resulted from sale of Land for Muthurua Open Air Space. All the relevant documentations are available. The Accounting Officer had written to the National Treasury requesting for funding to settle the bill. However, this amount was not factored in the current financial year budget and the Styate Department hope it will be considered in the budget for 2020/2021 financial year.

791) Contribution in Lieu of Rates (CILOR) due to the deficit Local authorities KSh.2,929,909,303.00. The bill has appeared in the Ministry's Financial Statement since 2013/2014 FY. However, there was no sufficient documentation to support the bill.

792) The Accounting Officer has engaged the National Treasury in an effort to write off the debt as advised by the CS of National Treasury. Copies of correspondences between the two Principal Secretaries 11/2/2020 and 27/2/2020 respectively were availed for perusal by the Committee.

793) Following Treasury advice, the claim has been forwarded to the office of the Attorney General for consolidation with other legal and arbitral related claim. Treasury letter no. AG3/87/1/VOL.V (69) dated on 04.03.2020 was attached for perusal by the Committee.

794) The auditor had correctly noted that pending bills included an amount of KSh.19,208,963.00 incurred in purchase of fixed assets procured during the year under Kenya Devolution Support Program (KDSP). A Copy of a list of assets was attached for perusal by the Committee.

795) A fixed Asset Register had not been finalized and therefore was not availed for audit verification. The State Department has endeavored to ensure that the fixed assets register is completed and availed to the auditors within thirty (30) working days from the date of this submission.

Committee Observations and Findings

796) The Committee observed and found that:

1) The payment of pending bills of KSh.105,986,061.20 had been confirmed. The amounts of KSh.10,171,941 and KSh.8,115,834.50 of the historical pending bills had also been paid. However, some historical bills were still pending;
2) The Accounting Officer undertook to ensure that the fixed assets register is completed and availed to the auditors within thirty (30) working days from the date of this submission; and
3) The matter was therefore unresolved.

Committee Recommendations

797) The Committee recommended that:

1) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills exist, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.**
2) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**
3) **Within nine months of the adoption of this Report, the Accounting Officer should avail to the Auditor General a comprehensive fixed asset register for Kenya Devolution Support Program (KDSP) for review and verification.**

230. Deposits

798) The State Department received a total of KSh.419,600,821.00 from the State Department of Planning for settlement of retention money owed to various contractors. The money was transferred together with the deposit register that had an equivalent balance of KSh.419,600,821.00. However, details on the retention register showed that retentions totaling KSh.128,233,923.00 that were to be paid out of the KSh.419,600,821.00 were yet to be paid even though only KSh.24,430,731.00 was remaining in the bank account resulting in unexplained shortfall of KSh.103,803,192. Further, the list provided to support the payments includes payment of KSh.179,004.00 to the Ministry Local Government which was nonexistent as at the time of transfer of the funds and the list had unexplained cash banking offset amounting to KSh.4,850,363.00.

799) Under the circumstances, the accuracy, validity, completeness and propriety of the deposits balance of KSh.24,023,531.00 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

800) The Accounting Officer admitted that the State Department for Devolution received a total of KSh419,600,821.50 from the state department of Planning in October 2014 for settlement of retention money owed to various contractors for former Ministry of local government. The State Department updated the deposit register to reconcile with the

cash book and established that the total payments as at 30th June 2018 was KSh.395,241,098.95. The status of the deposit account is as follows:

DATE RECEIVED	PARTICULARS	AMOUNT	PARTICULARS	AMOUNT PAID
31/10/14	Receipts From State Department of Planning	419,600,821.50	Payment Period (NOV.2014 - 30/6/2018)	395,241,098.95
			BAL.C/D	**24,359,722.55**

801)The Accounting Officer stated that in the cash book there were other retention receipts and with subsequent payments. The State Department has analyzed the list from state department for planning on 30/10/2014 against the payment made in the cash book for the period from Nov. 2014 to 30th June 2018 totaling KSh.395,241,098.95 against the list received from state department of planning. Copies of lists of contractors and bank certificate were availed for perusal by the Committee.

i) The amount of KSh.179,004.25 is a receipt, not a payment as stated in the report. It relates to Kenya HIV and AIDS Disaster Response (KHADREP) which was being managed by the former Ministry of Local Government. Since the Ministry of Local Government transitioned to Ministry of Devolution, the amount was credited in the deposit account of the Ministry after closure of the program.
ii) the deposit cash book also maintains other receipts which are not part of the ministry budget. KSh4,850,363.00 relates to retention money for other contractors held in the deposit account and subsequently repaid.

Committee Observations and Findings

802) The Committee observed and found that:

1) The deposit bank statement balance of KSh.24,023,531 confirmed that all contractors have been paid as at 30 June 2018; and
2) The Committee marked the matter as resolved.

Committee Recommendations

803)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

231. Compensation to Employees

804) The compensation to employees' payment of KSh.165,449,897.00 was above the approved fund budget of KSh.154,000,000.00. No documentation has been made available to support the approval of the over expenditure of KSh.11,449,897.00 Further, compensation of employee's figure of KSh.164,262,589.00 differs with the salaries journal for the year that adds up to KSh.166,375,026.00 The difference of KSh.1,112,437.00 has not been supported by any documents or reconciliation.

805) Consequently, the accuracy, validity and completeness of the compensation to employees' expenditure of KSh.165,449,897.00 could not be ascertained.

Submission by the Accounting Officer

806) The Accounting Officer admitted that the compensation payment of KSh.165,449,897.00 was above the approved budget of KSh.154,000,000.00 resulting to an over-expenditure of KSh.11,449,897.00. The over-expenditure of KSh.11,449,897.00 occurred due to under-budgeting of the personal emolument item. There was a salary funding gap which was occasioned by the following:

i. Appointment of the CAS towards the end of the financial year.
ii. Salary court award to an employee who had been suspended.

807) The Ministry engaged the National Treasury for additional funds to meet the funding gap. However, the funds were not provided in the supplementary II budget causing a shortfall and the over-expenditure. The relevant correspondences requesting additional funds were availed for perusal by the Committee.

Committee Observations and Findings

808) The Committee observed and found that:

1) The evidence and the explanation given by the Accounting Officer to confirm the accuracy, validity and completeness of the compensation to employees' expenditure of KSh.165,449,897.00 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

809) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

232. Proceeds from Domestic and Foreign Grants

810)The statement of receipts and payments reflects receipts from domestic and foreign grants of KSh.48,819,253.00 as at 30 June 2018. The balance relates to amounts disbursed by World Bank directly to Makueni County Government in respect to IDEAS Project. Information availed for audit indicated that the said amount was received by the County Government on 16 July 2018 which was outside the accounting period under review. Further, the IDEAS Project receipts total to KSh.66,307,652.00 due to KSh.17,488,399.00 in respect of the project administration that was as received in the financial year 2016/2017, recorded as KSh.19,897,500.00 but was not utilized that financial year. The difference of KSh.2,409,101.00 between amounts received by the State Department of Devolution on behalf of the project and amount transferred to the project has not been explained or reconciled.

811)Consequently, the accuracy of the proceeds from domestic and foreign grant figure of KSh.48,818,253.00 for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

812)The Accounting Officer submitted as follows**:**

i) Traditionally, the conditional grant is disbursed directly to the beneficiary counties by the EU after getting transfer instructions from the Ministry. The Ministry processes the payment and then notifies the National Treasury the counties that qualify to benefit as per the program guidelines and then National Treasury requests disbursement to the County from EU.

ii) The instruction to transfer the funds were processed by the Ministry on 31st may 2018 and received in the National treasury on 5th June 2018. The funds were received by the county on 17th July 2018 the delay being due to bank transfer time lag.The National Treasury through circular **REF: AG 4/16/2 VOL.2(90)** of **5th October 2018**instructed counties and ministries to recognize disbursements received in July as part of the exchequers for the accounting period and this is what was followed.

iii) The difference of 2,409,101.00 arose after the European Union credited to the Project Account at the CBK KSh17,489,499.30 instead of KSh19,897,500.00 the balance being indicated as Claim Offset. The EU indicated that the difference was to offset refund from another program which the National Treasury had not submitted back to the EU. The Ministry had written to Treasury for a refund of the same**.**

iv) That by end of FY 2017/18 the program estimate 1(First Phase) had come to an end and the Ministry had not received the refund. As a result, the PE1 had balances in project account that was to be returned back to treasury. Consequently, the refund claim lapsed.

Committee Observations and Findings

813) The Committee observed and found that:

1) The evidence the explanation given by the Accounting Officer to confirm the

accuracy of the proceeds from domestic and foreign grant figure of KSh.48,818,253.00 for the year ended 30 June 2018 was satisfactory; and

2) The Committee marked the matter as resolved.

Committee Recommendations

814)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

233. Transfer to Other Government Entities

815)The statement of receipts and payments reflect a total of KSh.4,604,371,258.00 as transfers to other government entities. However, the following balances do not agree with the amounts the respective government agencies.

Name of Agency	**Amount as per Financial Statements KSh.**	**Amount as per Agency Financial Statements KSh.**	**Difference KSh.**
Council of Governors	107,000,000.00	132,000,000.00	25,000,000.00
IDEAS Project	48,819,253.00	66,307,652.00	17,488,399.00

816)Devolution Support Project totaling KSh.1, 950,000,000.00 was made on 4 July 2018 which was four days after the year end hence not a receipt or payment during the year thereby overstating the exchequer receipts and the figure for transfers to other government entities balance of KSh.4,604,371,253.00 for the year ended June 2018 could not be confirmed.

Submission by the Accounting Officer

817)The Accounting Officer explained the causes of these variances and its reconciliation as follows:

a) Council of Governors. Variance: KSh25,000,000.00

818)This variance was caused by an amount sent to the Council of Governors being the Ministry's contribution to meet a part of the cost of hosting of the 2019 Devolution Conference. The event was held in Kakamega. The amount released to COG of KSh25 million was not budgeted under 'Grants to other government Agencies' to justify classification under that category. This expenditure is budgeted under a separate item.

819)The Ministry as a co-convener of the conference has an obligation to support the COG defrays part of the Devolution Conference expenses. This is in the spirit of participation and partnership in the planning and hosting of the Devolution Conference. The COG inadvertently classified the receipt as a grant. The difference has been reconciled.

b) IDEAS project variance: KSh17,488,399.00

820)This relates to the amounts that were transferred to the IDEAS Project during the financial year 2016/17. Arising from transfer timing difference the amount was received by the Project at the beginning of the F.Y 2017/2018. The difference is a result of timing difference. The figure therefore could not be included in the transfers to other government entities of the State Department's Financial Statements for 2017/18 financial year. It has been reconciled.

c) The KDSP Grant: KSh1,950,000,000.00

821)Grants to counties which are budgeted under KDSP are disbursed by the National Treasury directly to the County Governments. The disbursement of KSh.1,950,000,000.00 was released and received by the counties on 04.07.2018. Though it was outside the accounting period under review, there were instructions from the National Treasury to have the funds accounted for during the FY 2017/2018. The delay was occasioned by late release of the funds by the National Treasury. The difference has been reconciled. Copies of the treasury circular on the reconciliation were availed for perusal by the Committee.

Committee Observations and Findings

822) The Committee observed and found that:

1) The explanation given by the Accounting Officer to confirm overstating of the exchequer receipts and the figure for transfers to other government entities balance of KSh.4,604,371,253.00 for the year ended June 201was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

823)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

234. Hospitality

824)The hospitality supplies and services amounting to KSh.25,538,372.00 as per note 6 to the financial statements includes committee and task force allowances were paid to staff amounting to KSh.6,940,000.00 However, the committee allowances were paid to staff who were undertaking their normal duties and especially those within their lines of operations and no justification was provided why staff are paid allowances for undertaking their routine duties.

825)Under the circumstances, the legality and propriety of the hospitality expenditure of KSh.25,538,372.00 could not be ascertained.

Submission by the Accounting Officer

826)The Accounting Officer submitted that the Ministry being the co-host of the Devolution conference constituted a multi-agency committee charged with the responsibility of the planning and organization of the event. This exercise entailed working overtime and during weekends.

827)The work undertaken by the committee members was outside the normal duties of the officers involved. The appointment had clear terms of reference and output to be delivered. Following successful implementation of the conference the members were compensated by payment of committee allowance as per the SRC circular. A copy of the SRC circular and memo Ref MDP/DD/ADM/3/16 on the payment was availed for perusal by the Committee.

Committee Observations and Findings

828) The Committee observed and found that:

1) The Accounting Officer had not provided the appointment letter for the committee and task force for devolution conference to confirm their terms of reference; and
2) The matter remained unresolved.

Committee Recommendation

829)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

235. Other Operating Expenses- Unsupported Expenditure

830) Other operating expenses of KSh 405,269,854.00 as reported on note 6 to the financial statements includes an amount of KSh.25,000,000.00 transferred to Council of Governors allegedly to cater for Devolution conference preparation costs. However, the accountability documents or expenditure returns from the Council of Governors were not made available for audit examination. Further, other operating balance of KSh.404,269,854.00 as disclosed on note 6 to financial statements includes an amount of KSh.14,497,552.00 posted as an adjustment in the ledger but no supporting documents were provided for audit review.

831) In addition, Foreign Travel and Subsistence as per note 6 to the financial statements is reported as KSh.365,706.00 while the vouchers supporting this expenditure which were presented for audit verification amounted to KSh.533,533.00 The difference of KSh.167,847.00 has not been reconciled or explained.

832) Consequently, the propriety and accuracy of other operating expenses balance of KSh.405,269,854.00 for the year ended 30th June 2018 could not be confirmed.

Submission by the Accounting Officer

833) The Accounting Officer admitted that:

i) An amount of KSh25, 000,000.00 was transferred to the Council of Governors to cater for the hosting of the Devolution conference in April 2018. The Ministry was a co-host of the event. The Accounting Officer reported that the event took place and was a success. The State Department wrote to COG to have the documents in support of expenditure towards Devolution conference availed for verification. The relevant documents to support the resultant expenditure were received from COG and have been availed to the auditor.

ii) Other Operating Expenses adjustment - KSh.14, 497,552.00**.** The other operating expenses includes an amount of KSh14,497,552.00. This adjustment was made to correct errors that emanated from voided and cancelled invoices/payments**.** After the closure of the F/Y 2017/2018 while undertaking expenditure clean up exercise paid invoices were inadvertently reversed. Expenditure clean up exercise includes cancelling of unpaid invoices from the system. An analysis of the canceled invoices amounting to the same was attached**.**

iii) The Accounting Officer submitted that it was true that payment vouchers in support for foreign travel amounting to KSh533,553.00 exceeded the amount disclosed in the financial statements under foreign travel and subsistence of KSh365,706.00. The balance of the expenditure of KSh170,532.00 was charged under domestic travel and subsistence because the foreign travel account ha insufficient funds. However, there was misfiling and they were both filed together.

Committee Observations and Findings

834) The Committee observed and found that:

1) The Accounting Officer had provided an expenditure return to explain the propriety and accuracy of other operating expenses balance of KSh.405,269,854.00 for the

year ended 30th June 2018;

2) The adjustment was made to correct errors that emanated from voided and cancelled invoices/payments. The expenditure clean-up exercise includes cancelling of unpaid invoices from the system; and
3) The Committee marked the matter as resolved.

Committee Recommendations

835)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

236. Disbursement to Council of Governors Secretariat (COG) and Intergovernmental Relations Technical Committee (IGRTC)

836)Note 7 to the financial statements reflects an amount of KSh.4,604,371,258.00 in respect of transfers to other government entities which includes disbursements to Council of Governors (COG) Secretariat and Intergovernmental Relations Technical Committee (IGRTC) Secretariat. The total disbursements to the two organizations for the year under review amounted to KSh.482,552,000.00 with COG secretariat getting KSh.132,000,000.00 and IGRTC getting KSh.350,552,000.00 However, as per section 17 of the Intergovernmental Relations Act the IGRTC may employ officers and staff as are necessary to discharge the functions of Technical Committee, the Council and the Summit under the Act. It is therefore apparent there is duplication of roles and unwarranted use of public funds used in two entities that undertake the same function. There is no legal framework supporting the creation of Council of Governors Secretariat and hence no basis for disbursing the funds to the secretariat. In consequence, the legality and propriety of the KSh.132,000,000.00 to the COG could not be confirmed.

Submission by the Accounting Officer

837)The Council of Governors was established immediately after the election held in 2013 and as clearly noted in the report, the secretariat of the Council is the Intergovernmental Relations Technical Committee (IGRTC) established under section 15 of the Act. However, IGRTC though provided for in law, came into being after appointment of its members on 9th February 2015. This meant for a period of two years, the Council of governors operated without a secretariat as by law constituted due to the delay in establishing a working secretariat as required under the intergovernmental relations Act 2012.

838) To fill the vacuum, and to facilitate the activities of the Council of Governors and the summit established under section 7 of the Act, the council established a secretariat. By 2015 when IGRTC was established, Council of Governors secretariat was fully operational. To support its activities, there was need to establish a direct funding mechanism which has subsisted even after the establishment of IGRTC.

839) Meanwhile the Summit has resolved that the Intergovernmental Relations Act be amended to provide for establishment of a distinct secretariat for each of the two bodies. This proposal is among key legislative proposals forwarded to the cabinet by the Ministry through the office of the Attorney General. Copies of the cabinet memo and draft legislation were attached for perusal by the Committee.

Committee Observations and Findings

840) The Committee observed and found that:

1) There was no legal document to confirm the legality and propriety of the KSh.132,000,000.00 transferred the to the COG as a legal entity;
2) The Accounting Officer had made laudable steps to ensure the secretariat at the COG and IGRTC were well-grounded on a legal document and was awaiting the Cabinet's approval. Copies of the cabinet memo and draft legislation to amend the Inter-Governmental Relations Act were attached for perusal by the Committee; and
3) The Committee marked the matter unresolved.

Committee Recommendations

841) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

237 Instruments for Devolution Advice and Support (Ideas) Project

842) The State Department of Devolution is the implementing agency of Instruments for Devolution Advice and Support (IDEAS) project whose operating result have not been included in these financial statements and which had the following issue as at 30 June 2018.

237.1 Statement of Receipts and Payments

843) The statement of receipts and payments for the year ended 30 June 2018, reflect a total of KSh66,307,652.00 out of which KSh48,819,253.00 are direct payments made by third parties on behalf of the project. However, the documentation that has been provided to

support how the payment was made by European Union confirmed the money was received by the County Government in July 2018.

844) In consequence, the accuracy of the receipt of KSh.48,819,253.00 by the beneficiary could not be confirmed.

Submission by the Accounting Officer

845) The Accounting Officer submitted that the instructions to transfer the funds were processed at the Ministry on 31st May 2018 and received at the National Treasury on 5th June 2018 for transfer to the beneficiary County.

846) The funds were received by the beneficiary county on 17th July, 2018, the delay being due to bank transfer time lag. The National treasury through circular No REF:AG 4/16/2 VOL.2(90) of 5th October 2018, advised the counties and ministries to recognize the receipts in July as part of the receipts for the current year 2017/2018. Copies of Transfer Instructions to the beneficiary County, and receipt of funds acknowledgement by the County were attached for perusal by the Committee.

Committee Observations and Findings

847) The Committee observed and found that:

1) The explanation given by the Accounting Officer to confirm the accuracy of the receipt of KSh.48,819,253.00 by the beneficiary was satisfactory; and
2) The matter was resolved.

Committee Recommendations

848) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

237.2 Other Grants and Transfers and Payments

849) Other grants and transfers and payments as reflected on the statement of receipts and payments amounting to KSh.48, 819,253.00 fully relate to payments made by third parties directly to the beneficiary County. However, no accountable documentation was provided to support that the amounts were utilized at the County for the intended purpose.

850) Further, the agreement between the County Government and the State Department of Devolution under Article 15.7 require that the expenditure by the receiving County

Government be verified by an auditor appointed by the Ministry. However, the expenditure of KSh.48,819,253.00 had not been verified by the Auditor-General who is mandated by the constitution to audit all public funds or any other auditor duly appointed by the Auditor General.

851) Consequently, the expensing of the amount of KSh.48,819,253.00 is inappropriate as the amount is not yet accounted for as at 30th June 2018.

Submission by the Accounting Officer

852) The Accounting Officer submitted that Funds transferred from the Contracting Ministry to the County Governments are appropriated within the respective County governments and are accounted, reported and audited within the respective County systems as provided under the PFM Act 2012.

853) The role of the implementing Ministry is to transfer the grant funds to the Counties & the supervision of implementation of these projects in line with the respective grant agreements and EU guidelines. However, all financial records of the project are maintained by the county government. At the time of audit the county had not incurred any expenditure as the funds were received at the end of financial year.

854) The grant contracts with the respective beneficiaries provide for Expenditure Verification and audit by an independent audit firm for the purposes of receiving subsequent disbursements from the EU or final closure of the grant contracts, which Government of Makueni County had not met at the time. The independent audit did not interfere with the work and mandate of the office of the Auditor General as provided for in the constitution.

Committee Observations and Findings

855) The Committee observed and found that:

1) The explanation given by the Accounting Officer to confirm the appropriateness of the expenditure of KSh.48,819,253.00 was satisfactory; and
2) The matter be resolved.

Committee Recommendations

856) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

237.3 The proceeds from Domestic and Foreign Grants

857) The statement of receipts and payments reflects an amount of KSh.48,819,253.00 as proceeds from domestic and foreign grants payment made by third parties. However, no supporting documentation to demonstrate that this payment was actually made to the State Department of Devolution by the third party neither was there an acknowledgement by the recipient that the amount above was received. Information available for audit indicated that the amount was disbursed by the donor on 17 July 2018 and therefore SHOULD not have been receipt during the year.

858) Consequently, the accuracy and completeness of proceeds from domestic and foreign grants totaling KSh.66,307,652.00 for the financial year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

859) The Accounting Officer submitted that the funds were budgeted for in the Ministry as AIA and thus the transfer was done directly by the donor EU to Makueni County as captured in the terms of the conditional grant contract. The Makueni County acknowledged Receipt of the subject funds.

Committee Observations and Findings

860) The Committee observed and found that:

1) The explanation given by the Accounting Officer to ascertain the accuracy and completeness of proceeds from domestic and foreign grants totaling KSh.66,307,652.00 for the financial year ended 30th June 2018 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

861) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

237.4 Unauthorized Expenditure

862) The statement of receipts and payments reflects an amount of KSh.6,636,184.00 under purchase of goods and services. The figure includes an amount of KSh.3,466,584.00 in respect of printing, advertising and information supplies and services which included a figure of KSh.1,475,000.00 for purchase of polo t-shirts and caps that were not included

in the approved project work plan and KSh.1,991,584.00 in respect of banners, brochures and bended note books which had an approved budget of KSh.1,000,000.00 resulting in an over expenditure of KSh.991,584.00.No documentation was provided for audit examination to support the approval/authorization of the expenditure amounting to 2,466,584.00.

863)Under the circumstances, the accuracy, validity and propriety of the expenditure of KSh.6,636,184.00 on printing, advertising and information supplies for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

864)The Accounting Officer Submitted that the approved budget for programme visibility (3.4) in the Programme Estimate was KES 4,000,000.00 The programme visibility budget for PE 1 under (section 1.5) was to be used for - but not limited to; brochures, banners newsletters, newspaper supplements. A total amount of KES 3,466,584 was spent on visibility materials (brochures, banners, T-shirts, notebooks and CAPs) making a saving of KES 533,414.00 Hence there was no over expenditure on overall budget for visibility.

Committee Observations and Findings

865) The Committee observed and found that:

1) The explanation given by the Accounting Officer to ascertain the accuracy, validity and propriety of the expenditure of KSh.6,636,184.00 on printing, advertising and information supplies for the year ended 30th June 2018 was satisfactory; and
2) The matter be resolved

Committee Recommendations

866)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

238. Progress On Follow Up of Auditor's Recommendation for The Year Ended 30 June 2017 Financial Statements.

867)The department appeared before Public Accounts committee (PAC) on 7th May 2019 and responded to issues appearing the departments audit report arising from the financial statements for 2016/2017 Financial Year. The department acted on all the recommendation given by P.A.C in respect of the issues which were noted to be unresolved relating to the listed paragraphs:

- 238.1. Opening balances
- 238.2. Other revenue
- 238.3 Grants and transfers to other county governments
- 238.4 use of goods and services
- 238.5 cash and cash equivalent
- 238.6 prior year adjustment
- 238.7 pending bills
- 239 Basis for opinion
- 240.Conclusions

The ministry has implemented the PAC recommendations and submitted a report to treasury.

<u>This matter was considered and resolved by the Committee in the report of 2016/2017</u>

868) <u>The Committee observed that Paragraph 239 to 240 on lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

DONOR FUNDED PROJECTS

KENYA SYMBIOCITY PROGRAMME-GRANT NO.51110060– THE COUNCIL OF GOVERNORS

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

241. Accuracy, Completeness and Presentation/Disclosure of the Financial Statements.

869) The financial statements for Kenya Symbiocity Programme for the year ended 30 June, 2018 had an incorrect name for the project which was not in line with the Specific Project Agreement. The Agreement has the name Kenya Symbiocity Programme while the financial statements have Symbiocity Programme.

870) In addition, inconsistencies were noted between the note numbers as referenced in the financial statements and the actual numbers of the disclosure notes. Further, the figures on the financial statements were different from the figures reflected on the trial balance reconciliation for the two sets of records were not provided for audit review. In view of the foregoing circumstances, the accuracy, completeness and preparation of the project's financial statements could not be ascertained.

Submission by the Accounting Officer

871) The Accounting Officer submitted that it was true that the Financial Statements submitted for the year ended had the following inconsistencies:

i. The Financial Statements for Kenya Symbiocity Programme for the year ended 30th June 2018 had an incorrect name for the programme. A revised statement was submitted for the programme and the name was corrected to read "Kenya Symbiocity Programme" as per the Specific Agreement. A copy was attached for perusal by the Committee.
ii. The inconsistencies in the note numbers as referenced in the financial statements were corrected and correct reference numbers with respect to notes to financial statements provided in the amended statement.

iii. The inconsistencies in the financial statement figures and that of the Trial balance figures as per the earlier set of financial statements submitted on 30th September 2018 were adjusted in the amended statement submitted with the statement of receipts and payments and statement of financial assets and Liabilities and balances are now in agreement with the trial balance figures. The Trial balance figures are consistent with the financial statement figures.

Committee Observations and Findings

872) The Committee observed and found that:

1) The Accounting Officer failed to provide accurate records and other supporting documents during the audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The Accounting Officer did not ensure that the financial statements of the project were prepared in line with prescribed Standards pursuant to Section 81 (3) of the PFM Act, 2012;
3) A revised statement was submitted for the programme and the name was corrected to read "Kenya Symbiocity Programme" as per the Specific Agreement; and
4) The matter was marked as resolved.

Committee Recommendations

873)The Committee recommended that:

1) **The Accounting Officer must ensure that he prepares prepares the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time pursuant to Section 81 (3) of the PFM Act, 2012.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
5) **The matter be resolved.**

242. Cash and Cash Equivalents Balances

874) The bank balance of KSh.120,873,022 reported in the financial statements included a receipt of KSh.25,000,000 that was not recognized in the receipts during the year and was not reflected as a reconciling item. In addition, the bank reconciliation statement for 30 June, 2018 included cash in transit amounting to KSh.204,991 out of which an amount of KSh.192,491 had been outstanding for over four months. No explanation was provided for non-clearance of these amounts.

875) Under the circumstances, the accuracy of the cash and cash equivalents balance of KSh.120,873,022 as at 30 June, 2018 could not be ascertained.

Submission by the Accounting Officer

876) The Accounting Officer admitted that it was true that the amount of KSh.25,000,000.00 had not been recognized in the receipts during the year and not reflected as a reconciling item. The amount of KSh.25,000,000.00 is amount received from Ministry of Devolution as a contribution towards 5th Annual Devolution Conference in reference to commitment letter Ref. MDP/DD/ADM/3/12/VOL.III dated 22nd March 2018**.** The amount ought to have been transferred to the Council of Governors operation account as indicated in the Council of Governors Letter Ref. COG/6/15/F dated 4th May 2018 requesting for disbursement.

877) However, the amount was transferred by the Ministry of Devolution and ASAL to the Kenya Symbiocity project account. This was transferred from the project account to the Council of Governors operation account where subsequent expenditure in regards to the commitment was incurred. Furthermore, the amount has since been transferred from the project account to the Council of Governor operation account.

878) He added that the initial financial statements submitted had not recognized the amount as receipt during the year, however, the amended financial statements submitted adjusted the amount and has been recognized as receipt as further advised by the audit team during the audit exercise. The amount of KSh.192,491.00 is in relation to payment to Telkom Kenya for provision of internet services for the month of March, 2018. This cost is not a project cost and the amount was borrowed from the project funds and the same is subsequently recovered from the Council of Governors operation account. The amount has since been recovered in the financial year 2018/2019.

Committee Observations and Findings

879) The Committee observed and found that:

1) The Accounting Officer and the Chief Executive Officer Council of Governors (CoG) failed to ensure that complete and reconciled accounts were prepared and records kept in line with Section 68 (2) (b) of the PFM Act, 2012;
2) The Council of Governors was the implementer and manager of the Project and the finances for the project since money was channeled directly to CoG through the State Department of Devolution;
3) The explanation given by the Accounting Officer and the Chief Executive Officer

Council of Governors (CoG) was persuasive; and
4) The Committee marked the matter as resolved.

Committee Recommendations

880) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

243. Acquisition of Non-Financial Assets

881) The statement of receipts and payments as at 30 June 2018 reflects an amount of KSh.5,318,903 in respect of acquisition of non-financial assets and as further disclosed at note 7.5 to the financial statements, the figure includes an amount of KSh.150,800 in respect of purchase of office equipment, furniture and fittings. However, the payment vouchers provided in support of these purchases totalled KSh.1,317,760 resulting into an unexplained difference of KSh.1,166,960.

882) Similarly, note 7.5 of the financial statements reflects an amount of KSh.5,168,103 in respect of purchase of Transport Equipment while the payment vouchers provided in support of the purchase amounted to KSh.5,450,000. The difference of KSh.281,897 was not explained.

883) Additionally, ownership of the Kenya Symbiocity Programme Vehicle, Registration GKB 769S Double Cabin could not be verified as the Logbook was not provided for audit scrutiny. Under the circumstances, the accuracy of the payments and ownership in respect of acquisition of non-financial assets totaling KSh.5,318,903 as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

884) The Accounting Officer submitted that the difference amount of KSh.5,318,903.00 under the Non –Financial Assets as expenditure is with respect to purchase of motor vehicle for the project and purchase of equipment's during the year under audit. However, the initial financial statements had reported an understated amount of the total cost for motor vehicle by KSh.281,897.00 being 6% VAT withholding payment. The correct amount with respect to purchase of Motor vehicle for the project.

885) The amount of KSh..281,897.00 has since been adjusted in the revised financial statements and the correct amount with respect purchase of motor

vehicle(KSh.5,450,000) reported under acquisition of non-financial assets and this is further referenced under note 8.6 of the notes to financial statement. The amount of KSh.150,800 is with respect to purchase of office furniture and fittings during the financial year 2017/2018. However, the amount is understated by KSh.1,166,960.00 as the total cost of purchase of office equipment, furniture and fittings during the year the under review was KSh.1,317,760.00 The difference amount (KSh.1,166,960.00) has since been adjusted and the correct amount of KSh.1,317,760.00 in relation to purchase of office equipment and fittings during the year reported in the amended statements as further referenced in note 8.6 of the notes to the financial statements.

886) Further he confirmed that the difference amount of KSh.281,897.00 is with respect to 6% VAT withholding withheld on the payment and the same was subsequently submitted to Kenya Revenue Authority. The amount had not been captured in the financial statements submitted on 30th September 2018, however the amount was adjusted in the amended financial statement. The Kenya Symbiocity Programme Vehicle, Registration GKB 769S Double Cabin is registered under Council of Governors thus proof of ownership of the vehicle and the logbook for the vehicle was available and at the time of audit and further availed for audit scrutiny.

Committee Observations and Findings

887) The Committee observed and found that:

1) The Accounting Officer and the Chief Executive Officer Council of Governors (CoG) failed to ensure that complete and reconciled accounts were prepared and records kept in line with Section 68 (2) (b) of the PFM Act, 2012;
2) dDuring the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) However, the explanation given by the Accounting Officer and the Chief Executive Officer Council of Governors (CoG) and the documents availed were persuasive; and
4) The matter be resolved.

Committee Recommendations

888) The Committee recommended that:

1) **The Accounting Officer must ensure that he prepares prepares the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time pursuant to Section 81 (3) of the PFM Act, 2012.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **Accounting Officers must at all times ensure that they provide accurate records**

and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;

5) **The matter be resolved.**

244. Compensation of Employees

889) The statement of receipts and payments, reflects payments in respect of compensation of employees amounting to KSh.9,732,050. However, the figure includes KSh.670,250 being payments to a consultant.

890) Further, annual increment to the Communication Officer, for the months of November and December amounting to KSh.4,750 was not paid. No explanation was provided for the anomalies.

891) Consequently, the accuracy and validity of the cost of employees compensation amounting to KSh.9,732,050 could not be confirmed.

Submission by the Accounting Officer

892) The Accounting Officer submitted that it was true that the statement of receipts included an amount of consultancy service which is not compensation to employee cost. However, I wish to state that the correct amount for consultancy services is KSh.675,000.00 and not KSh.670,250.00 as stated. This amount is in relation to short term consultant contracted to undertake knowledge management and communication for the project after the contracted staff who was employed for the position resigned. The amount has since been adjusted and placed in the correct account under hospitality services.

893) Further, the Accounting Officer confirmed that the annual increment for the communication officer for the month of November and December 2017 of KSh.4,750.00 was effected and the amount was subsequently paid in the month of November and December 2017. The amount was not included in the financial statements submitted, however, the amount has been adjusted in the amended financial statement under compensation to employee.

Committee Observations and Findings

894) The Committee observed and found that:

1) The Accounting Officer failed to provide accurate records and other supporting documents during the audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The consultant was paid and was engaged in compliance with the PPAD Act, 2015 and guidelines issued by the National Treasury and Salaries Remuneration Commission – SRC; and
3) The matter be resolved.

Committee Recommendations

895) The Committee recommended that:

The matter be resolved.

245. Funds Balance

896) The statement of financial assets and liabilities includes an amount of KSh.28,155,667 described as amount payable to main account. However, evidence of how the funds were received culminating to a liability to the project was not provided.

897) Under the circumstances, the accuracy of the Fund balance of KSh.120,964,016 could not be confirmed.

Submission by the Accounting Officer

898) The Accounting Officer submitted that it was true that the statement of financial asset and liabilities included an amount of KSh.28,155,667.00 described as amount payable to main account. I wish to clarify that the amount of KSh.28,155,667.00 reported as payable to the Council of Governors operation account comprise of KSh.25,000,000.00 which was received from the Ministry of Devolution to facilitate payment of conference facility during the 5th Annual Devolution Conference. The Ministry had transferred the amount to the Symbio-city Kenya Programme account instead of transferring to the Council of Governors operation account as provided in the request letter and the amount ought to be transferred to the Council operation account. However, the amount has since been transferred from the project account to the Council of Governors operations account where the expenditure was incurred. The difference of KSh.3,155,667.00 is in relation to payment of salaries and allowance for the project staff supported under the project paid from the Council of Governors operations and the amount is refundable from the project account.

899) However, the amount was understated by KSh.6,219,933.00 being compensation to employee costs paid from the Council of Governors operation account and had not been refunded from the project account as at 30th June, 2018. The correct amount of compensation of employees is KSh.9,375,600.00 incurred during the financial year 2017/2018. The understated amount of KSh.6,219,933.00 has since been adjusted in the amended statements and correct amount of KSh.9,375,000.00 reported as payment in the financial statements and further referenced under notes to financial statements note 8.4. The amount has since been transferred from the project account to the Council of Governors operation account where the expenditure was incurred during the period.

Committee Observations and Findings

900) The Committee observed and found that:

1) The Accounting Officer failed to provide accurate records and other supporting documents during the audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The explanation given by the Accounting Officer and documents availed in regard to the funds balance were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

901)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

Other Matter

246. Budgetary Provisions and Work Plans

902)In reference to the Financing Agreement between the Swedish Government and Kenya Government, the release of grant is subject to availability of approved budget and work plans for the financial year. The approved budget and work plan for financial year 2017/2018 was not availed for audit examination. Further even though the management indicated that the budget was approved by the Council, no minutes were availed to support the approved budget by the Council.

Submission by the Accounting Officer

903)The Accounting Officer confirmed that the 2017/18 Financial Year Budget and Work Plans for the project were approved on 14th September, 2017 through an email communication from the Embassy of Sweden which allowed for implementation of the activities for the year.

Committee Observations and Findings

904) The Committee observed and found that:

1) The Accounting Officer failed to provide accurate records and other supporting documents during the audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The the minutes of the Council of Governors that approved the budget were later provided for review and verification;
3) The Project had a procurement plan for the year as required under Regulation 115 (1) of the PFM (National Government Regulations 2015; and
4) The Committee marked the matter as resolved.

Committee Recommendations

905)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM**

Act, 2012.

3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

906) The Committee observed that Paragraph 247 on lawfulness and effectiveness in use of public resources was discussed and found as satisfactory.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

247. Compliance with Specific Agreement

247.1 Funding as per Agreement

907) The specific agreement indicated that the Swedish Government was to provide financial assistance totaling 32,300,000 Swedish Kronor (SEK) and Technical Assistance amounting to SEK45,700,000 to the programme. However, project information attached to the financial statements indicated donor commitments of SEK30,300,000 (378,750,000) out of which only SEK 13,908,330 (KSh.163,136,457.00) had been received as of 30 June 2018; with no record in respect to technical assistance received. No explanation was provided for the variance of SEK2,000,000 (KSh.25,000,000.00) between the total financial assistance provided in the specific agreement and the one disclosed under project information in the 2017/2018 financial statement.

Submission by the Accounting Officer

908) The Accounting Officer submitted that the Kenya Symbiocity Programme was governed and regulated by two separate contractual agreements; agreement between the Swedish International Development Cooperation Agency (SIDA) represented by Embassy of Sweden and National Treasury of Kenya and an agreement between the SIDA represented by Embassy of Sweden and the Swedish Association of Local Authorities and Regions. Each agreement was stand-alone and has its specifics in terms of compliance, management and audit. The agreement between the Embassy of Sweden and Swedish Association of Local Authorities and Regions has its own terms of compliance in terms of implementation, disbursement of funds, reporting and auditing. The Swedish Association of Local Authorities and Regions (SALAR) is responsible for submitting to SIDA annual audited financial reports of the programme including submission of narrative report of the programme as stipulated in the agreement and thus their accountability is with Embassy of Sweden. It's on this basis that the component of technical assistance undertaken by SALAR could not be incorporated in the Council's financial statements for period ended 30th June 2018.

909) The Embassy of Sweden through a letter dated 4th December 2019 has since confirmed the disbursement for the Kenya Symbiocity Programme which included disbursement made in relation to Technical Assistance. Further, SALAR has submitted progress report

to the Embassy of Sweden from time to time in respect to provision of technical assistance during the period.

910)It was also true that no explanation was provided for the variance of SEK2,000,000(KSh.25,000,000.00) between the total financial assistance provided in the specific agreement and the one disclosed under project information in 2017/2018 financial statements.

911)The amount of SEK2,000,000.00 is in relation to an amount set aside by the Embassy of Sweden for procurement of an independent Financial Management Agency (FMA) to support management of funds to the Council of Governors. This procurement would be undertaken by the Embassy of Sweden and the funds set aside in this regards (SEK2,000,000.00) would be managed by the Donor (Embassy of Sweden). Under this circumstance the Council did not have control nor access of the fund and thus could not report on the same in the Financial Statements ending 30th June 2017. However, I wish to confirm that the Specific Agreement was amended on 17th December 2019 of which SEK2,000,000.00 is an amount set The amended agreement reflects donor commitment of SEK30,300,000.00 as total financial assistance for the programme.

Committee Observations and Findings

912) The Committee observed and found that:

1) The Accounting Officer failed to provide accurate records and other supporting documents during the audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The explanation given by the Accounting Officer and documents availed in regard to the funding of the Project were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

913)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

247.2 Financial Management Agency

914)The specific agreement stipulated that the project was to have an independent Financial Management Agency (FMA). The FMA was to be sourced and paid directly by the donor partner from the programme proceeds upto a budget of SEK2,000,000. However, the identity of the FMA has not been disclosed in the project information attached to the financial statements. In addition, details of the amounts so far paid to the FMA against the SEK2,000,000 budget have not been included in the financial statements for the year ended 30 June 2018.

Submission by the Accounting Officer

915)The Accounting Officer submitted that the Specific agreement provides for Financial Management Agency (FMA) with budget allocation of SEK2,000,000.00 and the agreement specifies that this amount is retained by the Embassy of Sweden. The FMA provides oversight for the Swedish Government funds at Council of Governors and further support the grant thus are contracted and reports directly to the Embassy. Therefore, the costs are managed by the Embassy of Sweden and the Council has no control nor access to the fund and thus could not be reported in the financial statements as at 30th June 2018. However, the Embassy of Sweden through a letter dated 4th December 2019 provided a schedule of disbursement including Financial Management Agency (FMA) disbursement in support of the Expenditure.

916)Further, the Financial Management Agency contracted by the Embassy of Sweden during the financial year 2017/2018 was Ernst and Young whose role was oversight for the Swedish Government funds and report to the Embassy.

Committee Observations and Findings

917) The Committee observed and found that:

1) The Accounting Officer failed to provide accurate records and other supporting documents during the audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The explanation given by the Accounting Officer and documents availed in regard to the independent Financial Management Agency (FMA) were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

918)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

247.3 Technical Assistance

919)The specific agreement also stated that the Swedish Government would make available support to the programme, through Swedish Association of Local Authorities and

Regions (SALAR), by providing technical assistance amounting to SEK45,700,000. The details of disbursements made by the Swedish Government to the SALAR or amounts paid to consultants by SALAR during the year under review have not been provided for audit verification. There was also no demonstration of how the receipts in kind would be accounted for in the programme`s financial statements.

920) Further, the Council of Governors, being one of the implementing agencies for the programme, did not provide for audit review, the documents detailing delivery schedules and key milestones used as a basis for initiating payments. It was, therefore, difficult to establish whether payments made in relation to technical assistance were made against attained project milestones.

921) Consequently, it was not possible to confirm whether or not value-for-money was obtained in respect of the technical assistance granted to the programme.

Submission by the Accounting Officer

922) The Accounting Officer submitted that I wish to clarify that the Kenya Symbiocity Programme is governed and regulated by two separate contractual agreements; agreement between the Swedish International Development Cooperation Agency (SIDA) represented by Embassy of Sweden and National Treasury of Kenya and an agreement between the SIDA represented by Embassy of Sweden and the Swedish Association of Local Authorities and Regions. Each agreement is stand-alone and has its specifics in terms of compliance, management and audit. The agreement between the Embassy of Sweden and Swedish Association of Local Authorities and Regions (SALAR) has its own terms of compliance in terms of implementation, disbursement of funds, reporting and auditing.

923) The Swedish Association of Local Authorities and Regions (SALAR) is responsible for submitting to SIDA annual audited financial reports of the programme including submission of narrative report of the programme as stipulated in the agreement and thus their accountability is with Embassy of Sweden. However, during the year under review, the SALAR programme team submitted programme progress reports for the year under review as confirmation of expenditure incurred and the milestones for the project**.**

924) Furthermore, the Embassy of Sweden provided the audited financial statements for Swedish Association of Local Authorities and Regions for the Financial year 2016/2017 and 2017/2018 as a confirmation of the accounting documents with respect to the grant. These reports were shared with the audit team for audit verification at the time of Audit.

Committee Observations and Findings

925) The Committee observed and found that:

1) The Accounting Officer failed to ensure that the details of disbursements made by the Swedish Government to the SALAR and amounts paid to consultants was provided in compliance with Section 9 (1) (e) of the Public Audit Act, 2015;
2) The explanation given by the Accounting Officer and documents detailing delivery

schedules and key milestones used as a basis for initiating payments availed the Council of Governors in regard to the technical asistance were satisfactory; and

3) The Committee marked the matter as resolved.

Committee Recommendations

926) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

248. Budget

927) The budget for the Kenya Symbiocity Programme reflected two components, that is, Swedish Association of Local Authorities and Regions (SALAR) and the Council of Governors (COG). However, the financial statements have only taken into account the COG component only. No reason has been provided for the exclusion of the SALAR component in the financial statements for the year ended 30 June 2018.

Committee Observations and Findings

928) The Committee observed and found that:

1) The Accounting Officer failed to provide accurate records and other supporting documents during the audit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The explanation given by the Accounting Officer and Chief Executive Officer for the Council of Governors in regard to the exclusion of SALAR component in the financial statements were satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

929) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

253. Acquisition of Assets

930) The financial statements under statement of receipts and payments reflect an amount of KSh..1,348,700.00 in respect of acquisition of non-financial assets. However, the quotation from suppliers that were used to source the assets were opened by different teams, there are two evaluation opinions on the supporting document though one of them is not supported by any relevant quotations and professional opinion from the Accounting Officer was not availed for audit review.

Submission by the Accounting Officer

931) The Accounting Officer submitted that the amount of KSh..1,348,700.00.00 in respect of acquisition of non-financial assets had been included under Communication, supplies and Services.

Finding No.1 – quotation from suppliers that were used to source the asset were opened by different teams.

932) The quotation No.4 was floated twice on 1st September, 2017 and 18th September, 2017 because the former quotations were misplaced but were later found. The quotations raised on 18th September, 2017 had been attached to the payment voucher by mistake. It is important to note that the same prices were quoted. That explains why there appears to be two committees opening the quotations.

Finding No.2 – there are two evaluation opinions on the supporting document though one of them is not supported by any relevant quotations.

933) The procurement of the non-financial assets amounting to KSh.1,348,700.00 was done through quotation NO.MODP/SDD/QTN/04/2017-2018 dated 18th September, 2017. The evaluation opinion mentioned suffices for both firms that were contracted to supply the items. The resultant quotations were availed for perusal by the Committee.

Committee Observations and Findings

934) The Committee observed and found that:

1) Within nine (9) months upon tabling and of the adoption of this Report, the Accounting Officer should avail to the Auditor General a comprehensive fixed assets register for Council of Governors for review and verification.
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The explanation given by the Accounting Officer and Chief Executive Officer for the Council of Governors in regard to the acquisition of assets were inadequate; and
4) The matter therefore remained unresolved.

Committee Recommendations

935)The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

INSTRUMENTS FOR DEVOLUTION ADVICE AND SUPPORT (IDEAS) PROJECT-CREDIT NO.KE/FED/024/230

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

250. Statement of Receipts and Payments

936)The statement of receipts and payments for the year ended 30 June 2018 reflect KSh.66,307,652 as proceeds from domestic and foreign grants. Included in the balance is KSh.48,819,253 direct payments made by third parties on behalf of the project which has also been disclosed as transfer to other government entities. However, documentation available show that the payment was made by European Union and money was confirmed received by the County Government in July 2018. Therefore, the receipt and expenditure should have been accounted for in the 2018/2019 financial year.

937)Consequently, the accuracy of the receipt and payment of Ksh.48,819,253 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

938)The Accounting Officer submitted that the instructions to transfer the funds were processed at the Ministry on 31 May 2018 and received at the National Treasury on 5 June 2018 for transfer to the beneficiary County. The funds were received by the beneficiary on 17 July, 2018, the delay being due to bank transfer time lag. The National Treasury through circular No REF:AG 4/16/2 VOL.2(90) of 5th October 2018, advised the Counties and Ministries to recognize the receipts in July as part of the receipts for the current year 2017/2018. A copy of the Circular from the National Treasury was provided for perusal by the Committee.

Committee Observations and Findings

939) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the accuracy of the receipt and payment of Ksh.48,819,253 for the year ended 30 June 2018 was persuasive;
2) The supporting documents including a Circular from the National Treasury on the

payments was submitted for audit review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendations

940) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

251. Unauthorized Expenditure

941) The statement of receipts and payments reflects an amount of Ksh.6,636,184 under purchase of goods and services. The figure includes an amount of Ksh.3,466,584 in respect of printing, advertising and information supplies and services which included a figure of Ksh.1,475,000 for purchase of polo t-shirts and caps. However, purchase of polo t-shirts and caps were not included in the approved project work plan. Also included in the Ksh.3,466,584 figure is Ksh.1,991,584 in respect of banners, brochures and bended note books which had an approved budget of Ksh.1,000,000 resulting in an over expenditure of Ksh.991,584. No documentation was provided for audit examination to support the approval/authorization of the expenditure amounting to Ksh.2,466,584.

Submission by the Accounting Officer

942) The Accounting Officer submitted that the approved budget for programme visibility (3.4) in the Programme Estimate was KES 4,000,000.00 The programme visibility budget for PE 1under (section 1.5) was to be used for - but not limited to; brochures, banners newsletters, newspaper supplements. The purchase of the shirts and caps was covered in the budget for program visibility.

Committee Observations and Findings

943) The Committee observed and found that:

1) The Accounting Officer failed to provide any supporting document in support the approval/authorization of the expenditure amounting to Ksh.2,466,584 for audit review and verification;
2) The failure to provide supporting documents to support the approval/authorization of the expenditure amounting to Ksh.2,466,584 within the required timelines was an offence. This offence of financial misconduct under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine of up to Ksh.10 million and or jail term of up to five years;
3) The explanation given by the Accounting Officer with regard to the approval/authorization of the expenditure amounting to Ksh.2,466,584 was

persuasive; and
4) The Committee marked the matter as resolved.

Committee Recommendations

944)The Committee recommended that:

1) **The Accounting Officer must provide supporting documents to support the financial misconduct pursuant to Section 197 (1) (k) of the PFM Act, 2012.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

252. Project Implementation

945)The project financing agreement was signed by the Cabinet Secretary, National Treasury and European Union representation on 25 September 2014 and on 26 February 2014 respectively. The project was to be implemented over a duration of 60 months and have a closure period of 24 months after the implementation phase. The project had been in the implementation phase for a period of 45 months while the total amount disbursed is EUR 602,796.84 (Kenya Shilling equivalent KSh.66,307,652) out of the total donor commitment of EUR 4,544,422.73 (Kenya Shilling equivalent KSh.499,897,500). The disbursed amount represents 13.26% while the lapsed project implementation time as at 30 June 2018 was 75%. There is a serious disparity in the implementation and there is a risk of not achieving the project objectives.

Submission by the Accounting Officer

946)The Accounting Officer submitted that it was true that the project has been in the implementation Phase for a period of 45 months. The implementation of the IDEAS programme did not start immediately after the signing of the Financing Agreement in September 2014. Due to the following challenges:

(i) Complications in negotiations between the Ministry, Council of Governors and European Delegation to Kenya to support 15 Counties instead of 10 provided for in the Financing Agreement.
(ii) The Technical Assistance Team (TAT) recruitment process was not concluded until 14th of September, 2015 when the Local Economic Development (LED) experts began their assignments.

(iii) The delays in opening of the PE Bank Account agreeable to the EU Delegation as the National Authorizing Office (National Treasury) insisted that the account to be opened with (Central Bank of Kenya.).

(iv) Delayed processing and approval of program estimates by the EU. (Revisions to the draft PE, the final PE1 for a six-month period 15th April, 2017-15th January, 2018T was signed on the 10th April, 2017. The funds for this PE were thereafter released on the 20th June, 2017 and reflected in the MODP Account in July, 2017. The release of the funds coincided with the closure of the GOK Financial Year and therefore no processes could take place).

(v) The implementation was further delayed by the electioneering period and the Ministry was not able to undertake most of the activities and therefore could not spend a significant amount of PE1 budget by 15th September, 2017.

The Ministry undertook the following measures

947) A request was made for a rider to the PE1 for extension which was granted for up to 15th January 2018. Though the disbursed amount is 13.26% the project will still achieve its objectives because the extension of the IDEAS Implementation Period was extended by two years up to 24th September, 2021, and the Closure period to 24th September, 2023. A copy of the Extension was provided for perusal by the Committee.

Committee Observations and Findings

948) The Committee observed and found that:

1) There was a challenge to know who the actual implementer of the Project was among the four parties namely: the Governors, the National Treasury, the State Department for Devolution and the Council of Governors;
2) The Accounting Officer did provide the Agreement between the State Department for Devolution, the EU – Commission and the County Governments;
3) The project was being implemented in 15 Counties; and
4) The matter therefore remainedunresolved.

Committee Recommendations

949) The Committee recommended that:

1) **The Accounting Officer must provide supporting documents to support the financial misconduct pursuant to Section 197 (1) (k) of the PFM Act, 2012.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

950) <u>The Committee observed that Paragraph 253 on effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

8.0. STATE DEPARTMENT FOR SPECIAL PROGRAMMES

FINANCIAL STATEMENTS FOR VOTE 1033

Mr. Micah Pkopus Powon, the Principal Secretary and Accounting Officer for State Department of Arid and Semi-Arid Lands (Vote 1033) appeared before the Committee on 10th June 2020 to adduce evidence on the Audited Financial Statements for State Department of Special Programmes (Vote 1033) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Isaac Githui - Secretary Special Programmes
2. Mr. Joseph Maina - Senior Principal Finance Officer
3. Mr. Joseph Yamo - Principal Accountant

254. Presentations and Disclosures of Financial Statements

254.1 Preparation of Financial Statements outside IFMIS

951)The financial statement reported were prepared outside IFMIS and the following differences were noted between the figures in the financial statements and the figures in the IFMIS: -

Details	**Amounts per Financial Statements (KSh.)**	**Amounts per IFMIS Reports (KSh.)**	**Difference (KSh.)**
Financial Assets	11,110,013	9,893,518,217	9,882,408,204
Financial Liabilities	10,899,114	10,485,872,765	(10,474,937,365)

The variances between the two sets of records have not been reconciled or explained.

Submission by the Accounting Officer

952)The Accounting Officer submitted that the variance was due to auto bank reconciliation which was not yet complete in the IFMIS system because of missing bank statements by the time the financial statements were being submitted. Later the statements were uploaded in the system.

953)However, the State Department is facing challenge due to change of vote from State Department of Special Programmes (Vote 1033) to State Department for ASALs. To be able to do the auto bank reconciliation in Vote 1033, the State Department requires IFMIS responsibility for Vote 1033 to access the IFMIS system. The State Department requested the IFMIS department for this access which was given but for a short period of time in which the State Department was able to do a few of the reconciliations, but the mandate was withdrawn and so were not able to complete the process.

954) However, the financial statements were prepared on the basis of manual bank reconciliations which reflect the correct position in the financial statement.

Committee Observations and Findings

955) The Committee observed and found that the Accounting Officer indicated that they were facing challenges due to change of vote from State Department of Special Programmes (Vote 1033) to State Department for ASALs. To be able to do the auto bank reconciliation in Vote 1033, they require IFMIS responsibility for Vote 1033 to access the IFMIS system which, the National Treasury has not given; and therefore the matter was unresolved.

Committee Recommendations

956) The Committee recommended that:

Within three (3) months of tabling and adoption of this report, the Accounting Officer should ensure that he gets the mandate to access Vote 1033 data and the responsibility to access the IFMIS system and complete the reconciliations.

254.2 Inaccuracies in the Financial Statements

957) There is a difference noted between the financial statement figures and ledger figures for the item communication, supplies of Ksh.37, 500 which has not been explained.

Submission by the Accounting Officer

958) The Accounting Officer submitted that the above difference was as a result of using incomplete parameters in the IFMIS system while submitting the request for the ledger from the IFIMS system. The correct request from the IFMIS have been done and now the figures tally. Schedules of the corrected Statements were attached for perusal by the Committee.

Committee Observations and Findings

959) The Committee observed and found that:

1) The Accounting Officer made they were facing challenges due to change of vote from State Department of Special Programmes (Vote 1033) to State Department for ASALs. To be able to do the auto bank reconciliation in Vote 1033, they require IFMIS responsibility for Vote 1033 to access the IFMIS system which, the National Treasury has not given; and
2) The mater was therefore unresolved.

Committee Recommendations

960) The Committee recommended that:

Within three (3) months of tabling and adoption of this report, the Accounting Officer should ensure that he gets the mandate to access Vote 1033 data and the responsibility to access the IFMIS system and complete the reconciliations.

255. Other Grants and Transfers

255.1 Emergency Relief and Refugee Assistance

961) The statement of receipts and payments reflects Ksh.3,401,423,681 (2016/2017 – Ksh.7,097,995,969) in relation to Other Grants and Transfers as at 30 June 2018. The

amount includes Ksh.3, 289,532,111 (2016/2017 – Ksh.7,097,393,359) in respect of Emergency Relief and Refugee Assistance. However, although the documentation in respect of procurement of the relief commodities were made available, the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny. Consequently, the validity of the expenditure and value for money to the citizens could not be confirmed.

Submission by the Accounting Officer

962)The Accounting Officer submitted that the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not availed for audit examination.

Relief food distribution process

a) Relief food distribution committee

963)The Ministry has the Ministerial Relief Food Distribution Committee with members drawn from the ministries of: Interior and Coordination of National Government, Planning, Agriculture, National Drought Management Authority and officers of the State Department. The Secretary Relief and Rehabilitation is the Secretary to this committee. The committee meets every month or when necessary to receive, analyze and recommend to the Principal Secretary approval of allocation of relief food requests from Counties and Sub Counties.

b) Approval of relief distribution plan

964)The Accounting Officer submitted that the approval of distribution plans are done through minutes indicating the amount of food allocated to counties, sub counties for needy population and amounts allocated for logistics of the same. The Principal Secretary approves by endorsing the distribution schedules in the Committee's minutes. Copies of minutes of Relief Food Distribution Committee done in 2017/2018 were availed for perusal by the Committee.

c) Identification of needy counties/sub counties and numbers

965)The Accounting Officer submitted that the relief food beneficiaries for each county/sub county is done by a Multi-Agency Stakeholders chaired by the National Drought Management Authority on the Long and Short Rains Assessments it undertakes. The stakeholders undertake two assessments in Arid and Semi-Arid Counties to determine the performance of the short and long rains and how it predisposes populations to the consequences of drought. After the assessment, they come up with needy population in each sub county. It is the identified needy population that Ministerial Relief Food Distribution Committee recommended the quantities of relief food to be availed. Relief and Rehabilitation consequently issues out relief food quantities as recommended by the Committee. Leaders including Members of Parliament also make requests for relief food depending on disasters that have affected the counties and sub counties. (A copy of the long rains and short rains assessment reports for the year 2017/2018 was availed for perusal by the Committee.)

d) Food quantities to counties and sub counties

966) The Ministry allocates food to counties based on the vulnerable populations assessed and identified during the long and the short rains assessments as provided in the reports. It is worth noting that, as per the World Food Programme, Kenya Guidelines person in a family of five (5) is supposed to be given 12 kgs. of cereals (maize or rice), 4kgs of legumes (beans or ndengu) and 0.75 litres of oil each month as relief food in situations of severe drought. However, due to little resources allocated, it has not been possible to attain this standard. Therefore, utilizing the little resources available, the Ministry allocates uniform quantities of relief food to ASAL counties just to ameliorate the suffering of those affected by the drought.

e) Allocation of relief food to Counties/Sub counties

967) The Accounting Officer submitted that the Ministry sends relief food to County Commissioners/Deputy County Commissioners who then coordinate the targeting of individual beneficiaries and further distributes the food. They are also expected to file in returns after distribution at any given point. This is indicated in the Ministry's relief food allocation letter which is also copied to Principal Secretary Interior, County Commissioner, Governor, Women Representative, and the Member of Parliament.**(**A letter addressed to all County Commissioners in ASAL Counties was attached for perusal by the Committee.)

Committee Observations and Findings

968) The Committee observed and found that:

1) The documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny;
2) The validity of the expenditure and value for money to the citizens could not be confirmed;
3) The Cabinet Secretary Ministry of Devolution and ASALs and, the Accounting Officer for State Department for ASALs had however written to the Cabinet Secretary of Interior and Coordination of National Government vide letters Ref: MDP/DD/ADM/6/77 dated 13th August 2019 and Ref:MDP/DSP/5/1 Vol.III dated 3rd June 2019 respectively over, accounting for food and funds under relief programme for the year ended 30th June 2018, and no response has been given to date; and
4) The mater was therefore unresolved.

Committee Recommendations

969) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

255.2 Unsupported ECORAD Project

970)The Other Grants and Transfers balance of Ksh.3,401,423,681 includes an amount of Ksh.92,141,470 in respect of an ECORAD Project for which no documents have been provided for audit verification.

Submission by the Accounting Officer

971)The Accounting Officer submitted that the above was AIA which was transferred directly from the donor Japanese International Co-operation Agency - JICA to the beneficiaries. This was a JICA technical assistance project. The assistance (AIA) is not channeled through the exchequer.

972)However, the State Department requested JICA to furnish it with accounting records to which they declined citing among other reasons that this was a technical assistance project and as such do not provide requested documents. JICA also cited that this is the same way they do for other JICA technical assistance projects they undertake in other sectors. As such JICA maintains its accounting records for its own accountability purposes

Committee Observations and Findings

973) The Committee observed and found that:

1) The Committee observed that the this was a JICA technical assistance project which not channeled through the exchequer and that the request for JICA to furnish with accounting records was declined citing among other reasons that this was a technical assistance project and that JICA does not provide requested documents for such assistances; and
2) The Committee marked the matter as resolved.

255.3 Unaccounted for National Drought Management Authority – NDMA Transfers

974)Further, the amount of other grants and transfers balance of Ksh.3,401,423,681 includes an amount of Ksh.19,500,000 issued to National Drought Management Authority (NDMA) for which no accountability document have been provided for audit verification.

Submission by the Accounting Officer

975)The Accounting Officer submitted that the amount of KSh19,500,000 issued to the NDMA was a normal transfer to NDMA as per the budget. The amount was included in the list of transfers done to NDMA and all the documents were provided for audit when the fund was being audited. The total amount of money transferred to NDMA was 3,284,875,071 of which KSh.19,500,000 was inclusive.

Committee Observations and Findings

976) The Committee observed and found that:

1) The amount of KSh.19,500,000 was included in the list of transfers done to NDMA totaling KSh.3,284,875,071 and all the documents were provided for audit when the

fund was being audited and verified; and
2) The Committee marked the matter as resolved.

255.4 Discrepancies in Relief Foodstuff Receipts and Distribution to Beneficiaries

977) Further, an audit inspection in four (4) Sub Counties namely Mwatate, Kilifi North, Baringo Central, Kitui Central and Makueni revealed the following anomalies in relief receipts and distribution to vulnerable populations:

The distribution of the relief food is undertaken by the State Department for Interior who make no report of the quantities received and quantities distributed to the State Department of Special Programmes and therefore there is no evidence that the foodstuff was received by the beneficiaries.

978) There was no documentation on how the needy persons were identified and hence no support of how the quantities of various destinations were determined. The management at the State Department of Special Programmes was not involved in ensuring smooth logistics for transportation and distribution of the relief support to the beneficiaries. There was no accountability for AIEs sent to the County Commissioners for transport as evidenced in the Counties which did not fully account for Ksh.1,700,000 AIEs sent to them.

979) In view of the foregoing, the accuracy, completeness, validity and accountability of Other Grants and Transfers balance of Ksh.3,401,423,681 could not be confirmed as at 30th June 2018.

Submission by the Accounting Officer

(i) The distribution of the relief food is undertaken by the State Department for interior who make no report of the quantities received and quantities distributed to the State Department of Special Programme and therefore there is nothing to show the foodstuff was received by the beneficiaries.

980) The Accounting Officer submitted that the distribution of relief food is done by State Department of Interior because the State Department of Special Programmes has no field officers in any of the 133 sub counties in the ASALs where food is distributed. The County Commissioners have since been asked to forward documentation on relief food distributed on behalf of Special programmes in the year 2017/2018.

(ii) There was no documentation on how the needy persons were identified and hence no support of how the quantities of various destinations were determined.

981) The Accounting Officer submitted that the quantities of various destinations are based on the long and short rains assessment reports. The assessment is undertaken by the Multi Agency stakeholders who determine the number of vulnerable persons in each sub county who require relief food assistance. Based on such reports, the Ministerial Relief Food Distribution Committee recommended the quantities to be sent to each sub county. However, due to limited resources it has not been possible to provide enough food per

person per month as per the best practice. Therefore, some small ratios are sent to sub counties to ensure that populations affected by drought can at least have a meal.

982) The Accounting Officer stated that the relief food beneficiaries for each county/sub county is done by a Multi-Agency Stakeholders chaired by the National Drought Management Authority on the Long and Short Rains Assessments undertakes. The stakeholders undertake two assessments in Arid and Semi-Arid Counties to determine the performance of the short and long rains and how it predisposes populations to the consequences of drought. After the assessment, they come up with needy population in each sub county. It is the identified needy population that Ministerial Relief Food Distribution Committee recommended the quantities of relief food to be availed. Relief and Rehabilitation consequently issues out relief food quantities as recommended by the Committee.

(iii)The management at the state Department of Special programmes is not involved in ensuring smooth logistics for transportation and distribution of the relief support to the beneficiaries.

Submission by the Accounting Officer

983) The Accounting Officer submitted that the Management of Special Programmes involves itself in the logistics of transportation of relief food from one central store in Nairobi up to Counties and Sub Counties headquarters. There were four transporters who were being assigned to transport food from Nairobi where our stores are based to sub counties. Once the transporters deliver food to assigned destinations, the Ministry also avails AIEs to Deputy County Commissioners for distribution logistics. Each Sub County in ASAL Area is allocated Ksh.200,000, Semi-Arid Sub Counties are allocated KSh.100,000 and none ASAL Counties are allocated Ksh70,000 for relief food logistics. There has always been a challenge of exchequer releases by the National Treasury which has affected timely issuing of AIEs to sub Counties for logistics. These include; (1) hire of secondary transport to ferry food from sub county headquarters to food distribution points, (2) payment of persons tasked with loading and offloading of food, (3) fueling of GK Lorrie used in food transportation in the sub counties. Due to lack of staff, management of Special Programmes has no officers on the ground to undertake food distribution logistics and hence reliance on National Government Administrative Officers in Sub Counties.

(iv)There was no accountability for AIEs sent to the County Commissioners for transport as evidenced in the counties which could not in fully account for KSh 1,700,000 AIEs sent to them.

984) The Accounting Officer submitted that the County Commissioners have served with a letter directing them to Account for all AIEs in 2017/2018 for relief food transport logistics.

Committee Observations and Findings

985) The Committee observed and found that:

1) The documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny;

2) The validity of the expenditure and value for could not be ascertained;
3) The Cabinet Secretary Ministry of Devolution and ASALs and, the Accounting Officer for State Department for ASALs had however written to the Cabinet Secretary of Interior and Coordination of National Government vide letters Ref: MDP/DD/ADM/6/77 dated 13th August 2019 and Ref:MDP/DSP/5/1 Vol.III dated 3rd June, 2019 respectively, over accounting for food and funds under relief programme for the year ended 30th June 2018, and no response has been given to date; and
4) The mater was therefore unresolved.

Committee Recommendation

986) The Committee recommended that:

1) **Accounting Officers must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

256. Use of Goods and Services - Routine Maintenance – Vehicles

987) Included in the figure of Ksh.767,068,671 for use of goods and services is Ksh.5,007,742 in respect of routine maintenance-vehicles. Examination of payments in this account revealed payments totalling Ksh.560,594 were not supported. Consequently, the accuracy and validity of the expenditure for routine maintenance-motor vehicles of KSh.5.007,742 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

988) The Accounting Officer submitted that it was true that the payments totaling Ksh.560,594 were not supported. The payment vouchers have now been availed with supporting documents, seen and verified by the Auditor General.

Committee Observations and Findings

989) The Committee observed and found that:

1) The Committee observed that the payment vouchers had been availed with supporting documents, seen and verified by the Auditor General; and
2) The Committee marked the matter as resolved.

Committee Recommendations

990) The Committee recommended that:

1) **Accounting Officers must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

257. Pending Bills

991) Analysis of historical pending bills at annex 2 to the financial statements totaling to Ksh.9,751,879 had no movements during the year some dating back to 31st December 2015. Management has not explained why they were not cleared. Further, failure to settle pending bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they will be charged.

Submission by the Accounting Officer

992) The Accounting Officer admitted that analysis of historical pending bills at annex 2 to the financial statements totaling to Ksh.9,751,879 had no movements during the financial year 2017/18, some dating back to 31st December 2015. The pending bills include;

Supplier	Amount	Status
National cereal and produce board	6,035,261.70	Not paid
National cereal and produce board	1,000,000.00	Not paid
Wajir vegetable supply Ltd	887,229.00	Paid
Wajir vegetable supply Ltd	1,829,388.20	Paid

993) The Accounting Officer reported that two of the pending bills that were not cleared were transferred to state department for devolution since the function is no longer with our department.

Committee Observations and Findings

994) The Committee observed and found that:

1) The matter will be executed well with the Accounting Officer of the State Department of Devolution.

258. Unresolved Prior Year Audit Issues

<u>These matter were considered and resolved by the Committee in the report of 2016/2017</u>

995) An examination of the State Department`s approved staff established records revealed that there were variations between the staff In-post and the approved establishment as shown below:

Office/Department	In-post	Approved Establishment	Remarks
Relief and Rehabilitation Division	2	10	Understaffed by 8
Community mobilization Division	0	11	Understaffed by 11
Community Development Unit	0	1	Understaffed by 1
Office of the secretary, Arid and Semi-Arid lands	3	0	Overstaffed by 3 staff (no approved availed)
ASALs Department	12	30	Understaffed by 18

Office/Department	In-post	Approved Establishment	Remarks
Policy, Research and knowledge management	5	0	Overstaffed by 5 staff (not approved)
ASAL Secretariat	2	0	Overstaffed by 2 staff (not approved)
Field Services offices at the county-ASALs	0	138	Not filled
Information communication & technology division	10	6	Overstaffed by 4 (no approvals availed)
HRM & department	10	11	-No Director, Deputy Director, Senior Assistant Director in post. -Understaffing by 1.
Central Planning & Projects Monitoring Unit	11	5	Overstaffed by 6 staff (No authority seen)
Supply chain management division	20	11	Overstaffed by 9 (No authority seen)
Records management personnel	2	6	Understaffed by 4 staff.

Submission by the Accounting Officer

996)The Accounting Officer submitted that the above was due to re-organization of Government in the Executive Order of May 2016, State department of Special Programmes was created and separated from the State Department of Devolution and hence became a separate vote beginning FY 2016/17. The State department inherited the staff establishment structure from the State department of Devolution. We have since sought and obtained a new approved organization structure, from the Public Service Commission, and we are currently in the process of implementing the new structure to fill vacant posts.

Committee Observations and Findings

997) The Committee observed and found that:

1) The Accounting Officer had since sought and obtained a new approved organization structure, from the Public Service Commission, and we are currently in the process of implementing the new structure to fill vacant posts; and
2) The Committee marked the matter as resolved.

9.0. STATE DEPARTMENT FOR PLANNING AND STATISTICS

FINANCIAL STATEMENTS FOR VOTE 1034

Mr. Saitoti Torome, the Accounting Officer for the State Department of Planning and Statistics (Vote 1034) appeared before the Committee on 17th August 2020 and 7th October 2020 to adduce evidence on the Audited Financial Statements for the State Department of Planning and Statistics (Vote 1034) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Sammy Naporos - MD – Kerio Valley Development Authority KVDA
2. Ms. Veronica Kamau - Assist. Accountant General
3. Mr. Titus Chemursoi - Finance and Accounts Manager KVDA
4. Mr. Joshua Musoti - Finance Manager KVDA
5. Mr. Anthony M. Nduthu - Finance Officer
6. Mr. Peterson Njenga - Principal Economist
7. Mr. Elias N. Njoroge - Finance Manager – KNBS
8. Mr. John Munywoki - Snr. Chief Finance Officer
9. Mr. Pinto O. Omuga - Accountant
10. Mr. James Mungai - Principal Accountant
11. Ms. Emma M. Kinatu - Finance Officer
12. Ms. Priscilla Njuguna - Accountant

Basis for Disclaimer of Opinion

270. Accuracy and Completeness of the Financial Statements
270.1 Accuracy of Financial Statements

998) **(I) The trial balance as at 30 June 2018 reflects balances against various account items which differ from corresponding balances reflected in the financial statements for the year then ended. The differences totaling KSh.100,481,828,741 (under) and KSh.8,910,155,414 (over) between the two sets of records have not been reconciled.**

Submission by the Accounting Officer

999) The Accounting Officer submitted that it was true that the trial balance as at 30 June 2018 reflects balances against various account items which differ from corresponding balances reflected in the financial statements for the year then ended. The differences totaling KSh.100, 481,828,741 (under) and KSh.8, 910,155,414 (over) between the two sets of records have not been reconciled.

1000) On this matter, he stated that there were challenges in the auto bank reconciliation which had not been fully implemented hence the system produced figures that were way beyond the budgeted allocation. However, currently the reconciliation of the IFMIS and manual systems are done concurrently and thus the reports generated to date are fully reconciled.

Committee Observations and Findings

1001) The Committee observed and found that:

1) The variances between the IFMIS records and Financial Statements had been resolved. The two sets of records were in agreement in year 2018/2019;
2) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to prepare accurate and complete financial statements that conform to the basic structure of government accounts; and
3) The Committee marked the matter as resolved.

(I) Capital grants to government agencies and other level of government in the financial statements is KSh.36,725,628,366 while the detailed analysis under note 6 of the financial statements casts to a total of KSh.36,765,553,336 resulting in unexplained variance of KSh.39,925,000.

Submission by the Accounting Officer

1002) The Accounting Officer submitted that it was true that the financial statements submitted on 30 September 2019 reflected Capital grants to government agencies and other level of government as KSh.36, 725,628,366 while the detailed analysis under note 6 of the financial statements casts to a total of KSh.36, 765,553,336 resulting in unexplained variance of KSh.39, 925,000.

1003) He stated that the State Department disbursed Kshs.36,765,553, 336 to SAGAs in the F/Y 2017/2018 as reflected in the detailed analysis. The variance of KSh.39, 925,000 relates to Capital Grant disbursed in respect of National Council for Population and Development but had been erroneously omitted in the financial statements. The omission has since been corrected through a journal entry No. 19270755. The restated financial statements and an updated trial balance, was availed for review in support of the amendments. Copies of the bank statements and the Journal entry No. 19270755 were attached for perusal by the Committee.

Committee Observations and Findings

1004) The Committee observed and found that:

1) The unexplained variance of KSh.39, 925,000 relates to Capital Grant erroneously omitted in the financial statements and has since been corrected and financial statement restated;
2) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to prepare accurate and complete financial statements that conforms to the basic structure of government accounts; and

3) The Committee marked the matter as resolved.

270.2 Unsupported Adjustments

1005) The management submitted financial statements to the Auditor-General on 28 September 2018 which was revised and another set submitted on 27 February 2019. However, the movements in the balances noted in some of the components as detailed below were not supported by any documentation or adjustment journals;

Component	2nd Financial statements KSh.	Revised financial statements KSh.	Variance KSh.
District Clearance suspense	0	73,322,660	73,322,660
Prior year adjustments	(563,400,307)	(488,660,397)	(74,739,910)

Under the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1006) The Accounting Officer submitted that it was true that the management submitted financial statements to the Auditor-General on 28 September 2018 which was revised and another set submitted on 27 February 2019. However, the movements in the balances noted in some of the components as detailed below were not supported by any documentation or adjustment journals.

1007) He also stated that the District Suspense of Kshs.73,322,660 had erroneously been recognized as cleared and reported under prior year adjustments hence affecting the district suspense and the prior year adjustment figures in the financial statements. Upon further reconciliation, it was noted that the amount had remained unaccounted for and thus recognized as outstanding district suspense balance through journal entries. The journal entries and analyses of the outstanding district suspense was attached for perusal by the Committee.

Committee Observations and Findings

1008) The Committee observed and found that:

1) The movements in the balances noted in the District Clearance Suspense balances had now been supported by adjustment journals.
2) The Accounting Officer submitted the financial statements way after the audit period thereby violating Article 229(4) of the Constitution, Section 68 (2) (k) of the PFM Act, 2012 , and Regulation 97 (2) as read with (3) of the PFM (National Government) Regulations 2015 on audit timelines. The financial statements were submitted on 27th February 2019 was null and void ab initio.

271. Receipts

271.1 Proceeds from Foreign Borrowing

271.1.1 Unsupported Advance payment for Arror-Multipurpose Dam Development Project

1009) The statement of receipts and payments reflect proceeds from foreign Borrowings of KSh.4,526,966,879 as at 30 June 2018. Included in this balance is KSh.4,292,651,060 paid to a firm as advance payment for the Arror Multipurpose Dam Development project. However, the following was noted about this payment:

i) The report on feasibility was submitted on 31 May 2012. No Environmental Impact Assessment report was provided for audit review.

ii) The advertisement requesting for proposals was made on 19 December 2014 and 24 December 2014 and closed on 18 March 2015.

iii) A second stage request for proposal (which was not in line with procurement regulations) was made with the closure date of 30 October 2015 under tender No.KVDA/RFP/36/2014/2015 without appropriate budgetary provisions or a financier for the project.

iv) The letter of bid was prepared on 26 October 2015 and the letter of acceptance by Kerio Valley Development Authority prepared on 14 December 2015.

v) Kerio Valley Development Authority signed a Memorandum of Understanding on 18 December 2015 committing to exclusively contract the bidder as and when they obtained funding from some stated financiers. The memorandum had a validity period of eight months which then expired on 18 August 2016. There was no evidence of extension provided for audit verification.

vi) The credit/finance was obtained in 2017 and financing agreement for the loan signed on 18 April 2017 amounting USD $224,442,164 equivalent to KSh.23,153,700,510 for a period of fifteen (15) years with a floating interest rate to be determined from time to time by the agent.

vii) The contract awarding the works was signed on 5 April 2017 seven months outside the validity period of the memorandum of understanding but no fresh bids were sought.

   a. Advance claim certificate of USD 41,611,141 (representing 15% of the contract sum) equivalent to KSh.4,292,651,060 which was used for payment was not dated, had not been recommended by the KVDA General Manager, Technical Services, and was not approved by CEO KVDA

viii) No evidence of who was paid the money, when the money was paid and by who and who granted the authority to pay the money was availed for audit examination.

ix) No evidence or correspondence to show the payment was made to the contractor by the financier upon obtaining the necessary approvals and to ensure there is delivery and compliance with contract terms.

x) An inspection carried out by the audit team on 5 April 2019 revealed the following:

- Even though the advance payment was made through a memorandum payment voucher dated 7 December 2017, no work had been done on the ground to cover the payment.

- No compensation had been made for the affected community members.

- Kenya Forest Service had not ceded the forest portion required for utilization in the dam construction.

- The agreement between the affected community and Kerio Valley Development Authority had not been confirmed and therefore viability of the project is in doubt.

Submission by the Accounting Officer

1010) The matter was a subject of an ongoing Court case.

Committee Recommendation

1011) The Committee recommended that:

1) **The Committee resolved that since the matter falls under National Assembly Standing Order Number 89, the Accounting Officer should, within three months after the tabling and adoption of this report, submit a brief on the status of the Court case to the National Assembly.**
2) **The matter be stayed under *sub judice* rule.**

271.1.2 Unsupported Payment for Sigor Wei Wei Integrated Development Project

1012) The statement of receipts and payments reflect proceeds from foreign Borrowings of KSh.4,526,966,879. Included in this balance of KSh.4,526,966,879 is KSh.234,315,819 in respect of payment to two consultant firms on behalf of KVDA. However, the following was noted about this payment.

i) The financing agreement availed for audit was made on 28 January 2007 and a further endorsement made on 18 September 2009.

ii) The project's lifespan was four years beginning 18 September 2009 and had detailed deliverables for each phase of the project and therefore the agreement lapsed on 18 September 2013.

iii) The memorandum payment voucher for capturing the payment consultants were prepared by KVDA in July 2017 which was more than three years outside agreement timelines for implementation.

1013) No further endorsement of financing loan agreement was provided in support of the validity of expenditure being captured in the financial statement.

1014) In addition, proceeds from foreign borrowings figure of KSh.4,526,966,879 includes direct payments amounting to KSh.234,315,819 made on behalf of Kerio Valley Development Authority to contractors and consultants in respect of Sigor Wei Wei Integrated

Development Project. However, supporting documents availed for audit revealed that payments totalling KSh.41,259,819 out of KSh.234,315,819 did not have certificate of completion from the inspection and acceptance committees hence not adequately supported for payment.

Submission by the Accounting Officer

1015) The Accounting Officer submitted that it was true that the financing agreement availed for audit was made on 28 January 2007 and a further endorsement made on 18 September 2009. However, Kerio Valley Development Authority (KVDA) signed a contract agreement with SWS Consulting Engineering S.r.l, Rome Italy on 4th December 2014 for the Phase 3 of the project. The Payment of Ksh. 41,259,819.00 was supported by an inspection and acceptance certificate of works dated 13th January 2017.

Committee Observations and Findings

1016) The Committee observed and found that:

1) The endorsements to the financing agreement to cover the payment period were not provided. The service contract provided was incomplete, section for contract period was omitted;
2) It was not clear whether the inspection and acceptance certificate of works dated 13th January 2017 related to KSh.41,259,819;
3) However, the Accounting Officer later submitted the names of the two consultant firms including shareholders/directors particulars as at date of payment and details of consultancy service undertaken to warrant payment of Ksh. 234.3million public funds and
4) The matter therefore remained unresolved.

Committee Recommendations

1017) The Committee recommended that:

1) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **The Committee to revisit the matter during its examination of the 2018-2019 financial year audit report.**

271.1.3 Unrecorded and Unsupported Retention Money

1018) The statement of receipts and payments reflect proceeds from foreign borrowings of Ksh.4,26,966,879 which excludes retentions totaling Ksh.11,472,805 in respect of payments to contractors and consultants for Sigor Wei Wei Integrated Development Project phase III.

1019) Consequently, the authenticity of proceeds from foreign borrowings and the propriety of the payments therefore amounting to Ksh.4,526,966,879 cannot be confirmed.

Submission by the Accounting Officer

1020) The Accounting Officer submitted that it was true that Kshs.11,472,805 was not included in the retention figure reflected in the financial statement. However, article V (3) of the Loan agreement states in part "For the payment of supplies and assembling of all equipment and materials awarded through the tender process, the Artigiancassa C shall disburse the funds to the Italian Contractor(s) in any current account at the name of the Italian contractor on its demand)". Hence no retention money was retained was by the State Department.

Committee Observations and Findings

1021) The Committee observed and found that:

1) The Committee observed that the explanation given by the Accounting Officer with regard to inclusion of Ksh.11,472,805 in the retention figure for reflection in the financial statement was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1022) The Committee recommended that:

The Accounting Officer submitted the financial statements way after the audit period thereby violating Article 229(4) of the Constitution, Section 68 (2) (k) of the PFM Act, 2012 , and Regulation 97 (2) as read with (3) of the PFM (National Government) Regulations 2015 on audit timelines. The financial statements were submitted on 27th February 2019 was null and void ab initio.

272. Other Revenues

1023) The statement of receipts and payments reflect other revenues of Ksh.294,587,503 being Appropriation in Aid collected during the year. However, the supporting documents availed to confirm the other revenue earned, received, confirmed and reported in the financial statement of the respective SAGAs amounted to Ksh.668,322,928 against a budget of Ksh.296,000,000. The accounting treatment of the amounts that are above the recorded balances has not been explained as analyzed below.

SAGAs	Budgeted AIA (KSh.)	Amount Collected (KSh.)
Kenya National Bureau of Statistics	71,000,000	288,345,947
Kerio Valley Development Authority	45,000,000	226,521,478
Tana & Athi Rivers Development Authority	157,000,000	130,222,079
Lake Basin Development Authority	21,500,000	18,365,424
Ewaso Ngiro South Development Authority	1,500,000	4,868,000
Total	**296,000,000**	**668,322,928**

1024) Under the circumstances, it has not been possible to confirm the accuracy of the other revenue balance of KSh.294, 587,503 reported in the financial statements as at 30 June 2018.

Submission by the Accounting Officer

1025) The Accounting Officer submitted that it was true that the statement of receipts and payments reflect other revenues of Ksh.294,587,503 being Appropriation in Aid collected during the year. However, the supporting documents availed to confirm the other revenue earned, received, confirmed and reported in the financial statement of the respective SAGAs amounted to Ksh.668,322,928 against a budget of Ksh.296,000,000.

1026) The Accounting Officer stated that according to section 84 of The Public Finance Management Act (No. 18 of 2012) Arrangement Of Regulations, Kenya subsidiary Legislation, 2015 on (Surrender of End –Year Surplus Cash Balances) states that Not later than the 31st January of each year, each Accounting Officer shall surrender to the National Exchequer Account unexpended voted money or excess Appropriations-in-Aid, as confirmed by Auditor-General in the audit report. Therefore, from the above it was the responsibility of the respective SAGAs to surrender their excess AIAs.

Committee Observations and Findings

1027) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to remittance of excess Appropriations In Aid (AIAs) to the National Treasury was not satisfactory;
2) The supporting documents availed by the Accounting Officer to confirm the other revenue earned, received, confirmed and reported in the financial statement of the respective SAGAs amounted to Ksh.668,322,928 against a budget of Ksh.296,000,000. Reasons for under-reporting of AIA from the SAGAs as Ksh. 294,587,503 instead of Ksh. 668,322,928 collected and reported by SAGAs in their books were not given;
3) The Accounting Officer failed to ensure all AIAs are collected and properly accounted for as stipulated in Regulation 43 (c) of the PFM (National Government) Regulations 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

1028) The Committee recommended that:

Within three (3) months of adoption of the report the SAGAS should surrender excess AIA to the Accounting Officer for onward transmission to the Consolidated Fund.

273. Use of Goods and Services

273.1 Specialized Materials

1029) The statement of receipts and payments reflect an amount of KSh.304, 669,023 in respect of use of goods and services. Included in this balance of KSh.304, 669,023 is KSh.16, 613,364 in respect of specialized materials and supplies which includes payments totaling KSh.7,778,730 made in respect of tuition fee expenses which is not in any way specialized materials, resulting in excess vote of a similar amount under the training vote. No evidence was availed to support the approval of the over expenditure by National Assembly contrary to section 113(1) of Public Financial Management (PFM) regulations 2015.This anomaly has not been satisfactorily explained.

1030) Consequently, the accuracy and propriety of specialized materials expenditure of KSh.16,613,364 in the financial statements could not be confirmed.

Submission by the Accounting Officer

1031) The Accounting Officer submitted that it was true that during the year under review Kshs. 7,778,730 was spent on training and charged under specialized materials. During that year, training allocation was budgeted and approved under specialized materials item code No. 2211000 sub item 2211009; education and library.

Committee Observations and Findings

1032) The Committee observed and found that:

1) The training allocation was budgeted and approved under specialized materials for the project; and
2) The Committee marked the matter as resolved.

274. Grants and Transfers to Other Government Entities

1033) The statement of receipts and payments for the year ended 30 June 2018 and Notes 6 of the financial statements reflects transfers to other Government Entities amounting to KSh.40, 336,190,128. However, there are differences amounting to KSh.8,177,413,627 between the amounts reported as disbursed by the State Department for Planning and the amounts reflected in the financial statements of the respective SAGAS which is as detailed below:

Entity	Amount disbursed by Ministry (KSh.)	Amount received by Entity (KSh.)	Difference KSh.
Kenya National Bureau of Statistics	2,628,666,648	2,410,805,540	217,861,108
National Constituency Development Fund	29,800,000,000	21,875,000,000	7,925,000,000
Lake Basin Development Authority	356,087,141	337,721,717	18,365,424
Ewaso Ngiro North Development Authority	268,379,281	333,222,674.00	(64,843,393)
Tana and Athi Rivers Development Authority	476,030,488	345,000,000	131,030,488

Ewaso Ngiro south Development Authority	522,366,291	572,366,291	(50,000,000)
Sub-Total	**34,051,529,849**	**25,874,116,222**	**8,177,413,627**

1034) As a result, the accuracy of the grants and transfer figure of Ksh.40,336,190,128 for the year ended 30 June 2018 cannot be confirmed.

Submission by the Accounting Officer

1035) The Accounting Officer submitted that it was true that the statement of receipts and payments for the year ended 30 June 2018 and Notes 6 of the financial statements reflects transfers to other Government Entities amounting to Ksh.40,336,190,128. However, there are differences amounting to Ksh.8,177,413,627 between the amounts reported as disbursed by the State Department for Planning and the amounts reflected in the financial statements of the respective SAGAS. He stated that the differences between grant disbursed by the State Department and amount received by the SAGAs is as analyzed below:

Entity	**Difference (KSh.)**	**Remarks**
Kenya National Bureau of Statistics	217,861,108	Kshs. 87,500,000: Received by the SAGA on 6th July 2018 Kshs. 59.361,108: Received by the SAGA on 6th July 2018 Kshs. 71,000,000: AIA not recorded by the entity as a recurrent grant though it was budgeted for.
National Constituency Development Fund	7,925,000,000	Kshs. 2,125,000,000:Received by Fund on 4th July 2018 Kshs. 5,800,000,000: Received by Fund on 9th July 2018. The entity did not report the amounts though they related to the F/Y 2017/2018
Lake Basin Development Authority	18,365,424	Kshs. 18,365,424; AIA not recorded in the Authority's Books though budgeted for.
Ewaso Ngiro North Development Authority	(64,843,393)	The Budgetary allocation for the year under review was Kshs. 268,379,281 *(see appendix 8)* for both recurrent and capital vote which was disbursed in full by the State Department. The variance between the two sets of records can only

		be accounted by the SAGA.
Tana and Athi Rivers Development Authority	131,030,488	Kshs. 131,030,488: AIA collected and reported by the Authority and recorded in the state Department.
Ewaso Ng'iro South Development Authority	(50,000,000)	Kshs. 50,000,000 relates to grant issued in F/Y 2016/2017 which the Authority recorded in the F/Y 2017/2018.
Sub-Total	**8,177,413,627**	

Committee Observations and Findings

1036) The Committee observed and found that:

1) The Grants to Lake Basin Development Authority, Ewaso Ngiro North Development Authority, Tana and Athi Rivers Development Authority, Ewaso Ngiro South Development Authority were not reconciled;
2) The reasons for the significant differences in the amounts reported as disbursed and the actual received by the SAGAs particularly the NG-CDF, which reportedly received Ksh. 7.925billion less were not given; and
3) The matter therefore remained unresolved.

Committee Recommendation

1037) The Committee recommended that:

Within three (3) months upon tabling and adoption of this report, The Acconting Officer should provide an explanation for the significant differences of the amounts disbursed to Other Government Agencies and especially NG-CDF.

275. Acquisition of Assets

275.1 Unsupported Construction of Civil Works

1038) The statement of receipts and payments for the year ended 30 June 2018 in the financial statements, reflect acquisition of assets amounting to KSh.1, 169,062,004. Included in this balance is KSh.424, 528,403 paid in respect of construction and civil works. However, documents availed in support of the amount showed the following;

i. Payment of Ksh.109,406,979 relates to a consultant's bill/invoice in respect of feasibility study and design of High Grand Falls Dam along River Tana in Tana River County, dated 30 June 2012 which had been outstanding ever since. The payment was made to an insurance company in respect of a claim settled to the consultant against a policy covering risk of nonpayment.

However, no documentation was provided to show the bill was actually outstanding as at the time of payment since the amount was not included in the pending bills for the financial year 2016/2017 and no documentation in support of inspection and acceptance of work done by consultant if any in respect of the contract dated 30 January 2010.

iii) Payment of Ksh.277, 793,123 in respect of consultancy services for feasibility study and design for Lower Ewaso Ngiro South Multipurpose Dam contracted in May 2012 and billed on 17 December 2013. However, no documentation was provided to show the bill was actually outstanding as at the time of payment since the amount was not included in the pending bills for the financial year 2016/2017 and no documentation was provided in support of inspection and acceptance of work done by consultant if any. In addition, the payment voucher provided in support of the payment had been voided and hence not valid for payment.

1039) Consequently, the accuracy, validity and propriety of construction of civil works expenditure of KSh.424, 528,403 cannot be confirmed.

Submission by the Accounting Officer

1040) The Accounting Officer submitted that it was true that payment of Ksh.109,406,979 relates to a consultant's bill/invoice in respect of feasibility study and design of High Grand Falls Dam along River Tana in Tana River County, dated 30 June 2012 which had been outstanding ever since. The payment was made to an insurance company in respect of a claim settled to the consultant against a policy covering risk of nonpayment.

1041) It was also true that payment of Ksh.277, 793,123 in respect of consultancy services for feasibility study and design for Lower Ewaso Ngiro South Multipurpose Dam contracted in May 2012 and billed on 17 December 2013. However, no documentation was provided to show the bill was actually outstanding as at the time of payment since the amount was not included in the pending bills for the financial year 2016/2017 and no documentation was provided in support of inspection and acceptance of work done by consultant if any. In addition, the payment voucher provided in support of the payment had been voided and hence not valid for payment.

1042) This is because the Department of Regional Development Authorities was under the Ministry of Environment, Water and Natural Resources. When the Department was transferred to the State Department for Planning, there was an approved budget allocation to settle the pending bills for High Grand Fall and Lower Ewaso Ng'iro South Dam during the F/Y 2017/2018.

Committee Observations and Findings

1043) The Committee observed and found that:

1) The Accounting Officers did not provide documents to confirm the accuracy, validity and propriety of construction of civil works expenditure of Ksh.424, 528,403;
2) There was no basis for the Accounting Officer to make payments of Ksh.109,406,979 and Ksh.277,793,123 purportedly as pending bills for feasibility study & consultancies using void payments vouchers and without providing supporting documents to the Auditor-

General. This is an offence of financial misconduct under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine of up to 10 million and or jail term of up to five years; 2

3) The Accounting Officer did not provide the particulars of the consultant firms including shareholders/director as at the date of payment and the details of the insurance company; and
4) The matter therefore remained unresolved.

Committee Recommendation

1044) The Committee recommended that:

1) **The Cabinet Secretary National Treasury should compel the Accounting Officer at the material time to provide an explanation for incurring expenditure that is neither lawful and authorized contrary to s.68(2)(a) of the Public Finance Management Act, 2012 within three months of adoption of this report.**
2) **Where no satisfactory explanation is not provided to the CS National Treasury and Auditor General within the stipulated time, Accounting Officer at the material time should be prosecuted for financial misconduct relating to incurring expenditure without lawful authority contrary to s.197(1)(h) of the Public Finance Management Act, 2012.**

276. Cash and Cash Equivalents - Bank Balance

1045) The statement of assets and liabilities reflects a bank balance of Ksh.8,991,117 as at 30 June 2018. However, a review of the bank reconciliation statement for the Central Bank of Kenya recurrent bank account had the following unsatisfactory issues:

i) The reconciliation included payments totaling Ksh.38,940,201.00 which had not been presented to the bank for payment as at the time of audit and which were more than six months old therefore not payable.
ii) Payments in cash book not in bank statement for the recurrent bank account included three payments totaling Ksh.24,495,961 paid on 26 June 2018 and that had been recorded twice in the cash book on 27 June 2018, effectively understating the cash balance by a similar amount and overstating unidentified expenditure by the same.
iii) The receipts in cash book not in bank statement for the recurrent bank includes an unexplained reversal of cash book under cast adjustment of Ksh.2,747,896.

1046) In view of the foregoing, it has not been possible to confirm that the cash-and-cash equivalents balance of Ksh.8,991,117 is fairly stated as at 30 June 2018.

Submission by the Accounting Officer

1047) The Accounting Officer submitted that it was true that the payments amounting to Ksh.38,940,201 had not been presented to the bank by the time of the audit. These payments were wrongly entered in the bank reconciliation.

1048) It was true that the payments referred in (i) above were wrongly recorded twice in the bank reconciliation statement. The payments were only transmitted once through the bank as

Ksh.21,809,267.45, Ksh.2,331,849.35 and Ksh.354,844.75 as per the attached bank statements.

Committee Observations and Findings

1049) The Committee observed and found that:

1) No evidence that amounts totaling Ksh.24,495,961 which was wrongly entered in the bank reconciliation has been corrected. The Accounting Officer provided misleading reconciled bank balances;
2) The Accounting Officer breached Regulation 90. (1) of the PFM (National Government) Regulation 2015 which mandates the Accounting Officer to ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer every month, and submit a bank reconciliation statement not later than the 10th of the subsequent month to the National Treasury with a copy to the Auditor-General. The existence of six month's old unreconciled payments totaling Ksh. 38,940,201 was an indication of non-compliance to the statutory requirement; and
3) The matter therefore remained unresolved.

Committee Recommendation

1050) The Committee recommended that:

1) **The Cabinet Secretary National Treasury should compel the Accounting Officer at the material time to provide an explanation for breach of Regulation 90. (1) of the PFM (National Government) Regulation 2015 within three months of adoption of this report.**
2) **Where no satisfactory explanation is not provided to the CS National Treasury and Auditor General within the stipulated time, Accounting Officer at the material time should be surcharged for financial misconduct pursuant to Regulation 90. (1) of the PFM (National Government) Regulation 2015.**

277. District Suspense

1051) The statement of assets and liabilities as at 30 June 2018 reflects accounts receivable balance of KSh.75, 649,930 which includes a district suspense figure of KSh.73, 322,660. The district suspense figure has been explained as the difference between the monies disbursed to various Regional Authorities in the financial year 2016/2017 for drought intervention measures totaling KSh.700, 500,000 and out of which the amounts of KSh.627, 177,340 had been converted to expenditure. However, a review of expenditure returns from the Regional Authorities showed that out of the total indicated as converted expenditure of KSh.627, 177,340, only KSh.430, 451,134 had relevant supporting documents, leaving an unsupported balance of KSh.196,726,206.

1052) Consequently, the accuracy and completeness of the accounts receivable balance as at 30 June 2018 cannot be confirmed.

Submission by the Accounting Officer

1053) The Accounting Officer submitted that it was true that the outstanding balance in the district suspense account was Ksh.196,726,206. The State Department has written to the

Regional authorities requesting them to account for the outstanding AIEs. See copies of correspondences. Some Regional Authorities have forwarded additional documents to account for the outstanding and unaccounted AIEs which will be reflected in our books after the verification by the Auditor General. See attached copies of the forwarding letters**.**

Committee Observations and Findings

1054) The Committee observed and found that:

1) The Accounting Officer has not accounted Kshs.196,726,206 being the outstanding balance in the district suspense account;
2) The Accounting Officer had not reconciled outstanding payments of over one month in bank not recorded in cash book;
3) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that the State Department prepares accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts; and
4) The matter therefore remained unresolved.

Committee Recommendation

1055) The Committee recommended that:

1) **The Cabinet Secretary National Treasury should compel the Accounting Officer at the material time to provide an explanation for breach of Section 68 (2) (b) of the PFM Act, 2012 within three months of adoption of this report.**
2) **Where no satisfactory explanation is not provided to the CS National Treasury and Auditor General within the stipulated time, Accounting Officer at the material time should be surcharged for prepares accurate and complete revenue statements that conforms to Regulation 97 of the PFM (National Government) Regulation 2015.**

278. Unsupported Prior Year Adjustments

1056) The statement of assets and liabilities reflects prior year adjustments amounting to KSh.488, 660,397. However, justification for the prior year adjustments and the documentary evidence to support the figures have not been provided for audit verification. In addition, the prior year adjustments have not been done in line with International Public Sector Accounting Standards which require restatement of all affected prior year balances in the financial statements.

1057) Consequently, the accuracy of the financial statements for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

1058) The Accounting Officer submitted that the prior year adjustments related the District Suspense amounts converted to expenditure in the financial year 2017-2018, adjustments on Recurrent, Development and Deposit bank accounts and adjustments on receivables thus affecting the balance brought forward. The Kshs.488,660,397 is composed of:

i) Amounts surrendered to the National Treasury after the closure of the financial year was Kshs. 2,079,366.00
ii) Amounts surrendered as imprest issued in the F/Y 2016/2017 and outstanding as at 30th June 2017 Ksh.2,104,936
iii) Amounts converted to expenditure in relation to District Suspense Ksh.484,476,095

Description	**2016-2017 Kshs.**	**2017-2018 Kshs.**	**Balance Kshs.**	
Funds Brought Forward	563,400,307	(488,660,397)	74,739,910	
Changes in Bank Accounts and Cash In Bank	2,079,366	(2,079,366)	-	
Changes in Accounts Payables	10,177,341	(10,177,341)	-	
Changes in Accounts Receivables	3,522,185	(2,104,936)	1,417,249	Adjustment supporting documents available in support of the changes
Changes in District suspense	557,798,755	(484,476,095)	73,322,660	Expenditure returns from the RDAs available for review

Committee Observations and Findings

1059) The Committee observed and found that:

1) The explanation given by the Accounting Officer and documents provided in support of the accuracy of the financial statements for the year prior year adjustment were ascertained; and
2) The Committee marked the matter as resolved.

279. Accounts Payable – Deposits and Retentions

1060) The statement of assets and liabilities reflects a balance of Ksh.8,833,772 as at 30 June 2018. However, a review of retention money outstanding at the close of 2016/2017 indicated that a contractor listed as having a retention balance of Ksh.4,857,934 then was currently not listed in the retention schedule for 2017/2018, yet no documentation has been provided to show how retention money was paid.

1061) Consequently, the completeness and accuracy of the deposit and retentions balance of Ksh.8,833,772 reported in the financial statements could not therefore, be confirmed.

Submission by the Accounting Officer

1062) The Accounting Officer submitted that no payment amounting to Ksh.4,857,934 was made during the year in questions. Copies of cash book, bank statements and the deposit analysis were attached for perusal by the Committee.

Committee Observations and Findings

1063) The Committee observed and found that:

1) The Committee observed that the Accounting Officer had not made payments of the retention balance of Ksh.4,857,934 to the contractor; and
2) The Committee marked the matter as resolved.

Committee Recommendation

1064) The Committee recommended that:

Within three (3) months upon tabling and adoption of this report, should ensure that payments of the retention balance of Ksh.4,857,934 to the contractor is made.

280. Pending Bills

1065) Pending bills totaling KSh.340, 632,037 as at 30 June 2018 have been disclosed under Note 16.1 to the financial statements. Had these bills been paid and the expenditure charged to the financial statements for 2017/2018 financial year, the statement of receipts and payments for the year under review would have reflected a net deficit of KSh.339,564,672 instead of the net surplus of KSh.1,067,365 now shown. Failure to settle the bills in the year they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they are charged.

Submission by the Accounting Officer

1066) The Accounting Officer submitted that it was true that the State Department had outstanding pending bills totaling to Kshs. KSh.340, 632,037 as at 30th June 2018. The Department has settled all the eligible pending bills amounting to Kshs. 193, 150,568.70. Historical bills amounting to Kshs. 3,728,022 remains outstanding. The State Department has written to respective firms requesting for evidence that the services were rendered but no response has been received to date.

1067) An amount of Kshs. 143,753,446.70 which was included in the pending bill was in relation to European Union and Danida CDTF Debits notes. A Task Force was established and its recommendation was that the Office of the Auditor General undertakes a detailed audit of the programme to provide an independent opinion on the claim.

Committee Observations and Findings

1068) The Committee observed and found that:

1) There was outstanding pending bills of Ksh 147,481,468 unpaid;
2) The underlying reasons for the Accounting Officer not to settle bills due and the contingency measures put in place to address the problem were not given; and
3) The matter therefore remained unresolved.

Committee Recommendation

1069) The Committee recommended that:

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

281. Prior Year Unresolved Audit Matters

Submission by the Accounting Officer

The Accounting Officer submitted that on prior year unresolved audit issues regarding **paragraphs 281.1, 281.2, 281.3, 281.4, 281.5, 281.6, 281.7, 281.8 and 281.9 (ii) & (iii).**

1070) During its sitting on 16th April 2019 the Public Accounts Committee examined the submissions tabled by the Accounting Officer on the report of the Auditor General on the financial statements of the Ministry of Devolution and Planning- State Department for planning for the financial year 2016/2017 the Committee treated the above matters as resolved.

The Committee discussed the issues in the Report of 2016/2017

281.9 District Suspense (AIEs)

1071) The statement of assets and liabilities as at 30 June 2017 reflects accounts receivable balance of KSh.561, 320,941 which includes a district suspense figure of KSh.557, 798,755. The district suspense figure has been explained as the difference between the monies disbursed to various Regional Authorities for drought intervention measures totaling KSh.700, 500,000 and amounts converted to expenditure. The following anomalies have been noted as regards the disbursement:

i. No evidence has been provided to demonstrate approval by Cabinet for the use of Regional Authorities as the vehicles to deliver drought mitigation measures;
ii. The basis of allocating funds to various Regional Authorities and the details of the programme each Regional Authority was to run have not been provided for audit examination; and
iii. The Regional Authorities did not confirm the amount of monies received and unaccounted for as at 30 June 2017.

1072) Further, the amounts converted to expenditure comprise KSh.132, 523,904 and KSh.701, 245 in respect of Ewaso Ng'iro South Development Authority and Ewaso Ng'iro North Development Authority respectively. However, an amount of KSh.9, 476,096 disbursed to Ewaso Ng'iro South Development Authority has not been disclosed either as expenditure or outstanding AIE and has not been supported with any relevant documentation. The exclusion of the figure of KSh.9, 476,096 from the financial records has not been explained.

Submission by the Accounting Officer

1073) The Accounting Officer submitted as follows: -

i. As per the Committees' recommendations that the State Department obtains the Cabinet Memo that approved the Regional Development Authorities (RDA) to act as vehicles to deliver drought mitigation measures, the State Department vide letter Ref. TNTP/SDP/17/25 OF 27TH May 2019 requested The National Treasury to provide a copy of Cabinet Memo. The Treasury vide letter Ref. ES1/03/"O" (3) indicated that the Cabinet Memo is not in their custody.
ii. However, letters Ref: CONF/MOF/356/01/TY (126) and CONF/MOF/356/01/TY (126) dated 27th October 2016 and 2nd February 2017 respectively that granted approval and allocated funds to the RDAs provides sufficient evidence of approval of the RDAs to undertake drought mitigation initiative are hereby attached**.**
iii. As recommended by this Committee, the State Department ensures that an acknowledgement is obtained every time disbursements are made to the SAGAs as evidence from our correspondence letters.

<u>The Committee discussed the issues in the Report of 2016/2017</u>

281.10 Cash and Cash Equivalents

i) The bank balances of KSh.12, 191,813 as at 30 June 2017 reflected in the statement of assets and liabilities differs from the verified cash book balances of KSh.139, 226,598.
ii) In addition, trial balance figures for bank balances differs with the balances as per financial statements as detailed below:

Account	**Trial balance** **KSh.**	**Financial Statements** **KSh.**	**Difference** **KSh.**
Recurrent	1,744,074,553	1,693,603	1,742,380,950
Deposits	0	10,177,341	(10,177,341)
Development	1,000,059,857	320,870	999,738,987

iii) Further, the bank balances as per the reconciliations differ with bank certificate balances by KSh.376, 834,856 for the recurrent and development accounts. The above differences have not been reconciled or explained.

Submission by the Accounting Officer

1074) The Accounting Officer submitted that the deposit cashbook was reconciled and was updated as per the Committees' recommendations. See the current reconciliation.

<u>The Committee resolved the issues in the Report of 2016/2017</u>

281.11 Bank Reconciliations Statements

i) The bank balances of KSh.12, 191,813 include an amount of KSh.1, 693,603 in respect of recurrent account. However, the reconciliation statement for the recurrent cash book reflects receipts in the bank statement not in cash book of KSh.2, 105,672 out of which KSh.116, 499.20 were dated July 2017 and therefore relates to 2017/2018 financial year. The statement also reflects payments in the bank statement and not posted in the cash book amounting to KSh.44, 349,056.60 out of which KSh.3, 180,558.80 were dated July 2017 and therefore relate to 2017/2018 financial year. In addition, another payment of KSh.9, 039,078 was over one month old and no explanation has been provided for the delay in its resolution. Further, the statement reflects receipts in the cash book not in the bank statement totalling KSh.34, 956,457.95 which include an unexplained adjustment of KSh.34, 769,909.95 in the cash book.

ii) The bank balances of KSh.12, 191,813 also include an amount of KSh.320, 870 in respect of development account. However, the reconciliation statement for the development cash book also reflects payments in the bank statement but not in the cash book of KSh.1, 291,100.50 all of which were over one month old. The reconciliation statement also reflects receipts in the bank statements not in cash book of KSh.5, 180,386.00 out of which KSh.4, 325,950 had been outstanding for one month as of 30 June 2017. The above anomalies have not been explained.

Submission by the Accounting Officer

1075) The Accounting Officer submitted that the State Department has been updating the bank reconciliation as recommended by this Committee.

<u>**The Committee resolved the issues in the Report of 2016/2017**</u>

1076) <u>The Committee observed that Paragraph 282 to 283 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

10.0. MINISTRY OF DEFENCE

FINANCIAL STATEMENTS FOR VOTE 1041

1077) The Committee observed that Paragraph 321 to 323 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

11.0. MINISTRY OF FOREIGN AFFAIRS

FINANCIAL STATEMENTS FOR VOTE 1052

Amb. Macharia Kamau, the Principal Secretary and Accounting Officer for the Ministry of Health (Vote 1081) appeared before the Committee on 29th October 2020 to adduce evidence on the Audited Financial Statements for the Ministry of Health (Vote 1081) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexes to this report). The following officials accompanied him:

1. Mr. Chimwaga Mongo - Secretary Administration
2. Mr. James A. Aloyo - Senior Chief Finance Officer
3. Mr. Vincent L. Kirwa - Deputy Accountant General
4. Ms. Margaret Gachuru - Director Assets Management
5. Mr. Solomon Nyamwaro - Finance Officer

Basis for Qualified Opinion

324. Unapproved Expenditure and Irregular Prior Year Adjustment

1078) The Ministry of Foreign Affairs expenditure estimates (Supplementary II) for 2017/2018 reflects a development budget of Ksh. 207,786,113 for the Kenya High Commission in Pretoria in respect of construction of the ambassador's residence and staff houses. A review of expenditure records revealed that payments amounting to Ksh. 439,635,854 were made to the contractor for the construction works in 2017/2018 financial year. The total payments of Ksh.439,635,854 exceeds the budget of Ksh.207,786,113 by Ksh.231,849,741 leading to unapproved expenditure of Ksh.231,849,741.

1079) To accommodate part of the expenditure that was not budgeted for in 2017/2018 financial year, the management irregularly made a prior year adjustment of Ksh. 221,020,794 as disclosed in Note 15 to the financial statements. According to the International Public Sector Accounting Standard: Financial Reporting under the Cash Basis of Accounting, Paragraph 1.5.3. Only errors in the preparation of the financial statements of one or more prior periods discovered in the current period are required to be corrected by a prior year adjustment. The errors according to the Standard may occur as a result of mathematical mistakes, misinterpretation of facts, mistakes in applying accounting policies or oversights. However, in the foregoing case, no error had occurred in the previous financial year to warrant a prior year adjustment in the financial statements for the year ended 30 June 2018.

Submission by the Accounting Officer

1080) The Accounting Officer submitted that it was true that the Ministry's development budget estimates (Supplementary II) for 2017/18 Financial year had a provision of Ksh.207,786,113.00 for Kenya High Commission, Pretoria in respect of construction of the Ambassador's residence and staff houses. It is also true that the development expenditure for the Kenya High Commission, Pretoria amounted to Ksh.439,635,853.55 for the 2017/18 Financial Year, thereby occasioning excess expenditure over budget of Ksh.231,849,740.55.

It should be noted that the above excess expenditure was incurred during the 2016/17 financial year but settled in the 2017/18 financial year when the funds were made available to the Mission.

1081) The construction of the Ambassador's residence was planned to be executed over a number of Financial Years due to budgetary constraints. Works planned for execution during the 2016/17 Financial Year were estimated to cost Ksh.424,500,000 and the same provided for in the 2016/17 Financial Year's budget for Pretoria. These activities were fully executed and dully billed for payment by end of the Financial Year (30th June 2017). The Certificates were, however, sent to Ministry of Public Works for verification and authorization but were yet to be sent back to the Mission by 30th June 2017 to facilitate payment processing. The National Treasury was also unable to release the 2nd half exchequer in time – the 2nd half development exchequer to Pretoria amounting to Ksh. 220,000,000 was released towards the end of the year and reflected in the Mission's bank account on 3rd July 2017.

1082) This belated exchequer was captured in the Mission's cash book for the 2017/18 financial year and the pending certificates paid therefrom since the cash book for the 2016/17 Financial Year had just been closed and board of survey report produced. The development expenditure settled with the belated exchequer release was, therefore, captured in the 2017/18 Financial Year's statements instead of being captured in the 2016/17 Financial Year's statements.

1083) During the preparation of the 2017/18 Financial Year's statements, it was noted that an error of omission had been committed by not including the above expenditure in the 2016/17 Financial year's statements and hence a suitable accounting adjustment needed to be made. The Ministry therefore effected this change by making a prior year adjustment in the 2017/18 Financial Year's books with a view to marching this expenditure with the 2016/17 Financial Year's budget and thereby correcting the error of omission in 2016/17 Financial Year's statements. This adjustment was dully disclosed in the 2017/18 financial year's statements and availed for audit review.

Committee Observations and Findings

1084) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the unapproved expenditure and irregular prior year adjustment was satisfactory;
2) The Accounting Officer submitted support documents which were reviewed by the Auditor General and confirmed satisfactory; and
3) The explanation by the Accounting Officer was satisfactory and therefore the committee resolved the matter.

325. Pending Accounts' Payables / Bills

1085) The Ministry of Foreign Affairs had pending accounts' payables/bills totaling Ksh.2,036,219,938 as at 30 June 2018 that were not settled in 2017/2018 financial year but were instead carried forward to 2018/2019. Had the bills been paid and expenditure charged to the accounts for 2017/2018, the statement of receipts and payments for the year ended 30

June 2018 would have reflected a deficit of Ksh.1,652,730,790.80 instead of the surplus of Ksh.383,489,147 now shown. Failure to settle bills during the year in which they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

1086) The Accounting Officer submitted that it was true that the Ministry of Foreign Affairs had pending accounts payables/bills totaling Ksh.2,036,219,937.80 as at 30th June 2018 that were not settled in 2017/2018 financial year but were instead carried forward to 2018/2019 as summarized below:

Description	Amount Ksh.
Supply of Goods	254,328,520.65
Supply of Services	327,516,095.30
Staff Payables - Middle Management	64,500,433.40
Subscriptions to International Organizations	1,389,874,888.45
Total	**2,036,219,937.80**

1087) The bills were subjected to verification and a stock of only Ksh.1.8bn were established to be payable as per the attached verification report. The pending bills above were caused by none release of exchequer towards closure of the financial year – all the bills had been processed in IFMIS and loaded into the Internet Banking (IB) platform awaiting exchequer release. Treasury was unable to release the exchequer by closure of 2017/2018 Financial Year, thus forcing the Ministry to carry forward the bills to the next financial year 2018/2019.

1088) The Ministry at the commencement of 2018/2019 Financial Year, verified the bills and settled them as 1st charge on the 2018/19 Financial Year's budget, in compliance with the Public Finance Management Act 2012 provisions. The subscriptions bills were, however, forwarded to the National Treasury for settlement since the budget for the same had been moved to the National Treasury's Vote.

Committee Observations and Findings

1089) The Committee observed and found that:the Accounting Officer had settled the pending bills for 2017/2018 at the commencement of 2018/2019 financial year; and therefore the Committee considered the matter resolved.

Committee Recommendation

1090) The Committee recommended that:

Accounting officer ensure that pending bills are treated as a first charge in the subsequent financial year approved budget and prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012. Further, the Cabinet Secretary for the National Treasury should put in place

mechanisms to ensure that bills due are promptly settled to ensure responsive, prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2012.

1091) The Committee observed that Paragraph 326 to 237 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

12.0. STATE DEPARTMENT OF BASIC EDUCATION

FINANCIAL STATEMENTS FOR VOTE 1063

Dr. Belio Kipsang, the Accounting Officer for the State Department of Early Learning and Basic Education (Vote 1063) appeared before the Committee on 27th May 2020 to adduce evidence on the Audited Financial Statements for the State Department Basic Education (Vote 1063) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Emilio Mukira - Head of Accounting Unit
2. Mr. Wekesa Khaoya - Chief Finance Officer
3. Mr. Mujumba Obwoyere - Deputy Director Education
4. Mr. Humphrey Masai - Senior Accountant
5. Mr. Moses Kigen - Finance Officer
6. Ms. Cheche Faith - Senior State Counsel

328. Compensation for L.R.NO.7879/4 Ruaraka High School and Drive-Inn Primary School

1092) Note 6 to the financial statements on use of goods and services reflects other operating expenses amounting to KSh.5,548,266,723 for the year ended 30 June 2018. Included in this amount is KSh.1,500,000,000 paid to the National Land Commission being part payment for acquisition of land occupied by two schools in Ruaraka area. However, evidence of budgetary provision and approval was not provided. There was no evidence of budgetary allocation for the payment neither approval of the same.

1093) In addition, records provided for audit review indicated that the proprietors of the said property had in 1984 applied for the subdivision/development of the above land to the then Director of City Planning. In his reply to the applicants through letter Ref. No. CPD/0644/7879/4 dated 28 March 1984, the Director of City Planning-Nairobi gave a conditional subdivision approval where the owners were to set aside land for public utilities. However, the developers through unreferenced letter dated 5 April 1984 declined and stated clearly, they were no longer interested with the Director of City Planning's conditional approval and that the entire application of subdivision be cancelled.

1094) As at the time of the audit, the entire area had been developed contrary to the provisions of Section 30,31 and 41 of the Physical Planning Act, 1996 (Revised 2012) that applications for development SHOULD be accompanied by such plans and particulars as are necessary to indicate the purposes of the development, and in particular shall show the proposed use and density, and the land which the applicant intends to surrender for purposes of principal and secondary means of access to any subdivisions within the area included in the application and to adjoining land; and public purposes consequent upon the proposed development.

1095) Had due diligence been observed by all parties in the whole transaction, compensation for the land that ought to have been surrendered for public utilities SHOULD not have occurred. Further, the National Land Commission had on 13 September, 2016 written to the Cabinet Secretary Ministry of Education informing him that the proprieties of the said property had filed a complaint with the Commission that the two schools had been occupying their land for 30 years without compensation.

1096) The Commission had thereafter, on 24, April 2017 instructed the Ministry to set aside KSh.3,269,040,600 as compensation for the land. The instructions to set aside the funds were given prior to the Commissions' valuation report dated 14 June, 2017, in which the land was valued at KSh.3,262,136,690.

1097) In the circumstances, it has not been possible to confirm that the expenditure totalling KSh.1,500,000,000 for the year ended 30 June 2018 was procedural and a proper charge to public funds.

Submission by the Accounting Officer

1098) The Accounting Officer submitted as follows;

i) **THAT** the National Treasury approved the payment through a letter by the Principal Secretary National Treasury addressed to Principal Secretary Basic Education dated 13th November, 2017 giving authority to the Ministry to spend KSh.1,500,000,000 in the compulsory acquisition of part of LR. NO. 7879/4 pending the regularization of the expenditure in the 2017/18 Supplementary Estimates II indicating the balance will be reviewed in the context of financial year 2018/19 budget. Correspondences between the State Department of Basic Education and the National Treasury dated 13th and 29th November respectively were attached for perusal by the Committee.

ii) **That** due diligence was conducted by the National Land Commission as it is the body mandated by Law to do so as stipulated in (Article 67 (e) of the Constitution and Sections 107-133 of the Land Act 2012. The Court made a determination on the same in Environment and Land Court Reference no.1of 2018. An extract of the Court ruling was attached for perusal by the Committee.

iii) **That** the State Department transferred the funds to the National Land Commission after seeking authority from the National Treasury and communicating the same to the Commission via a letter dated 19th January, 2018 indicating the release of funds which was credited to their (Commission) National Bank Account on 22nd January, 2018. A copy of the letter from the Ministry to NLC dated 19th January, 2018 was attached for perusal by the Committee.

Committee Observations and Findings

1099) The Committee observed and found that:

1) The same matter had been very well canvassed in a meeting held with the National Land Commission on 26th May 2020;
2) A judgment on the matter was made in the High Court in Nairobi and later an appeal was lodged in the Environment Land Court under Reference ELC No 1 of 2018 ***National Land Commission Vs Afrison Export Import Ltd & Others***;

3) The Departmental Committee on Lands of the National Assembly had investigated and reported to the House on the same matter and the House duly adopted the said Committee Report;
4) The matter was, therefore, stayed under ***sub judice*** rule.

Committee Recommendations

1100) The Committee recommended that:

1) **Since there was an active Court of Appeal proceeding on the matter, the Committee's pronouncement on the matter might prejudice its fair determination.**
2) **The matter was, therefore, stayed under *sub judice* rule.**

329. Cash and Cash Equivalents

329.1 Reversal of Stale Cheques

1101) Included in the statement of assets and liabilities as at 30 June 2018 is cash and cash equivalent balance of KSh.119,211,679. However, excluded from the balance of KSh.119,211,679 are stale cheques amounting to KSh.32,452,532 and which had not been reversed in the cash book as at 30th June 2018.

1102) The State Department did not explain why the stale cheques payments were not reversed in the cash book. Under the circumstances the accuracy of cash and cash equivalent balance of KSh.119,211,679 as at 30th June 2018 could not be confirmed.

Submission by the Accounting Officer

1103) The Accounting Officer submitted that the as at 30th June 2018 the State Department bank reconciliation statement had stale cheques of KSh.32,452,532. However, all the outstanding payments have since been paid and the remaining payments reversed in the cash book. The same have been presented to the auditors and verified. Copies of; bank statement, cashbook and schedules of stale cheque showing dates when the payments were actually paid or reversed were attached for perusal by the Committee.

Committee Observations and Findings

1104) The Committee observed and found that:

1) The outstanding payments had been paid and the remaining payments reversed in the cash book; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1105) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM**

Act, 2012.

3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

330. Accounts Receivable

330.1 Temporary Imprests

1106) The statement of assets and liabilities as at 30 June 2018 reflects account receivable balance of KSh.712,165,859. Details of which are disclosed in Note 13 to the financial statements. The balance included KSh.2,879,366 being imprest that had not been surrendered as at 30 June 2018. This is contrary to Section 93(5) of the Public Finance Management (National Government) Regulation, 2015.

1107) In addition, the Integrated Financial Management Information Systems Imprest Register reflected outstanding imprest of KSh.3,165,243 as at 30 June 2018 resulting in a variance of KSh.1,666,700. No explanation was given for the variance between the two sets of records. In the circumstances, it was not possible to confirm the accuracy, validity and completeness of the outstanding temporary imprest figure of KSh.2,879,366.

Submission by the Accounting Officer

1108) The Accounting Officer submitted that the State Department financial statement reflected KSh.2,879,366 as outstanding imprest. The outstanding imprest has since been cleared and verified by the auditor. Copies of payment and clearance of the outstanding imprest were attached for perusal by the Committee. The IFMIS record reflected KSh.3,165,243.00 as outstanding imprest. A reconciliation was done and presented to the auditors for verification.

Committee Observations and Findings

1109) The Committee observed and found that:

1) The outstanding imprests had been paid, cleared and verified by the Auditor General; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1110) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public**

Audit Act, 2015.

4) **The matter be resolved.**

331. Accounts Payable - Deposits and Retentions

1111) The statement of assets and liabilities as at 30 June, 2018 reflects accounts payable balance of KSh.80,139,200 (2016-2017 KSh.64,852,390) which as disclosed in note 14 to the financial statements includes other liabilities figure of KSh.78,277,274 (2016/2017 – KSh.62,990,464) and whose nature and supporting documents were not availed for audit review. In addition, it is not clear and management has not explained why the payables balance of KSh.62,990,464 which has been outstanding over four (4) years has not been settled as at the date of this report. In the circumstances, the accuracy, validity and completeness of the accounts payable balance of KSh.80,139,200 for the year ended 30 June, 2018 could not be ascertained.

Submission by the Accounting Officer

1112) The Accounting Officer submitted that the State Department did not submit the supporting documents for the deposits as at the time of review. The amounts have not been paid since the claimants have not come to claim so far. The same has been analysed as indicated here below;

PARTICULARS	**AMOUNT**
CDE Kisumu	12,907.80
Infrastructe Funds	229,956.00
UNESCO	486,801.50
ASK Show	1,132,260.35
Capital Contruction	17,060,218.10
TSC Headquarters Building	44,847,445.85
ECDE Grants	378,318.55
World Food Program	434,370.00
M/S High Point	270,111.80
Total	**64,852,389.95**
Addition for the year: un paid deductions	17,433,884.00
Less payments for the year	(2,147,074.00)
Grant Total	**80,139,199.95**

1113) The State Department is in the process of remitting the money to the National Treasury as per the PAC recommendation report of 2016-2017

Committee Observations and Findings

1114) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the accuracy, validity and completeness of the accounts payable balance of KSh.80,139,200, was satisfactory;
2) The Accounting Officer undertook to return the money back to the National

Treasury before end of the financial year 2019/2020 and report back to the National Assembly; and

3) The matter was, therefore, marked as resolved.

Committee Recommendation

The State Department was in the process of remitting the money to the National Treasury as per the PAC recommendation report of 2016-2017.

332. Subsidies

1115) Note 7 to the financial statement reflects subsidies totalling KSh.54,008,807,387 for the year ended 30 June 2018. Included in this amount is overpayment of subsidies to secondary schools amounting to KSh.269,254,288 to 185 secondary schools in eleven (11) sampled counties whose enrolment data was inflated.

1116) Although the State Department for Early Learning and Basic Education has explained that the officer involved in the data entry that resulted in a variance between the enrolment data submitted by schools and the enrolment data used by the State Department for computation of amounts due to the schools was interdicted and the matter referred to Ethics and Anti-Corruption Commission for further investigation, the case has not been concluded. In addition, two non-existent schools in Kakamega received a total of KSh.27,329,598.95.

1117) In the circumstances, it was not possible to confirm that payment of KSh.296,583,887 to the 187 secondary schools was a proper charge to public resources.

Submission by the Accounting Officer

1118) The Accounting Officer submitted that there was an overpayment of KSh.103,049,164 to 150 schools. However, the auditor stated that the overpayment is KSh.269,254,288 to185 schools. The difference between the values of the auditor and the State department is explained as follows:-

- The academic year runs from January to December of every year whereas the Government financial year runs from July to June.
- In the year under review the State Department disbursed funds to the schools within two academic years which had different enrolments. However, the Auditor used the students' enrolment of 2018 as a basis for review.
- For the two academic years, that is 2017 and 2018, two different disbursement rates were applied, KSh.12,870 and KSh.22,244 respectively. However, in computing his data the auditor used a flat rate of KSh.19,246 which thus resulted in the stated overpayment.
- Enrolment figures of some schools whose names had some resemblance, were erroneously interchanged resulting in higher disbursement.

1119) In view of the foregoing therefore the State Department would wish to acknowledge that there was an over payment of KSh.103,049,164.00 to 150 schools which arose due to:

- While disbursing funds for term one (January 2018), the State Department used estimates since the figures for form one had not been established.
- There was an officer who fraudulently inflated enrolment figures in the system for some schools.

1120) Further to the above, there was a fictitious school that benefited from the disbursement amounting to KSh.11,131,305.53 contrary to what the auditor has indicated as KSh.27,329,598.95. In addition, the officer referred to above created the non-existent school in the disbursement schedule.

1121) In view of the above, the State Department undertook the following measures: -

(i) Reconciled the enrolment figures in the two academic years and recovered overpayments in the subsequent disbursement. In this regard, the State Department has recovered the total amount of KSh.103,049,164,164.00 as per attached schedule.

(ii) The officer involved in data entry, who occasioned the variance between the enrolment data submitted by schools and the enrolment data used by the State Department for computation of amounts due to the schools was interdicted and the matter referred to Ethics and Anti-Corruption Commission for further investigation. Investigations are ongoing.

(iii) The State Department has now adopted the NEMIS system through which the school principals capture enrolment data for their schools.

Committee Observations and Findings

1122) The Committee observed and found that:

1) There was a fictitious school called Mundeku Secondary School in Kakamega County that benefited from the disbursement amounting to KSh.11,131,305.53;
2) The said non-existent school was created by one Joshua Ocharo Momanyi, a former Clerical Officer at the Directorate of Education Offices in Kakamega and he listed it in the disbursement schedule;
3) The said Mr. Joshua Ocharo Momanyi was a signatory to the said fictitious school account held at Equity Bank Kakamega;
4) In addition, the Accounting Officer has already taken action and interdicted Mr. Joshua Ocharo Momanyi;
5) That notwithstanding, the matter was referred to the Ethics and Anti-Corruption Commission for further action; and
6) The matter therefore remained unresolved.

Committee Recommendations

1123) The Committee recommended that:

Within three (3) months after tabling and adoption of this report, the EACC should conclude the report on the investigations. Mr. Joshua Ocharo Momanyi and any other Public Officer and entity found culpable should be duly recommended for prosecution for committing an offence of financial

misconduct leading to incurring wasteful expenditure on behalf of the government and the State Department as provided for in Section 197(1) (k) and (l) of the PFM Act, 2012.

Other Matter

333. Budgetary Control and Performance

1124) The State Department of Early Learning and Basic Education had a total approved budget of KSh.93,688,058,581 against actual expenditure of KSh.92,585,874,563 resulting in under absorption of KSh.1,102,184,018 or 1.18% of the budget. It has not been explained why the State Department did not utilize its allocated budget of KSh.1,102,184,018 as at 30 June 2018.

333.1 Recurrent Vote

1125) The State Department of Early Learning and Basic Education had an annual recurrent budget of KSh.83,774,399,585 against actual expenditure of KSh.83,832,934,873 resulting in overall under expenditure of KSh.(58,535,287). The State Department underutilized the budget under other grants and transfers and acquisition of assets by 50% and 99.63% respectively. The under absorption of the approved budget is an indication of activities not implemented by the State Department which implies non delivery of planned goods and services to the Kenyan citizens for the year ended 30 June 2018.

333.2 Development Vote

1126) The State Department of Early Learning and Basic Education had an annual development budget of KSh.9,913,658,996 against actual expenditure of KSh.8,752,939,691 resulting in under expenditure of KSh.1,160,719,305. The State Department underutilized the budget under use of goods and services and acquisition of assets by 13% and 100 % respectively. The under absorption of the approved budget is an indication of activities not implemented by the State Department which implies non delivery of planned goods and services to the Kenyan citizens for the year ended 30 June 2018.

Committee Observations and Findings

1127) The Committee observed and found that:

1) There was an under absorption in the budget for the State Department which the Accounting Officer undertook to take action and improve to ensure delivery of planned goods and services to the Kenyan citizens; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1128) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

334. Payment of Rent without Valid Lease Agreements

1129) As reported previously, the statement of receipts and payments for the year ended 30 June 2018 reflects use of goods and services figure of KSh.9,647,926,541 which includes payments totalling KSh.174,949,886 in respect of rentals of produced assets as disclosed in note 6 to the financial statements. The figure of KSh.174,949,886 also includes KSh.15,583,858 being rent of office space for various State Department offices whose valid and current lease agreements with various landlords and property managers were not availed for audit verification.

1130) In the circumstances, it was not possible to confirm that the rent paid of KSh.15,583,858 was in line with the existing agreement and consistent with market rates. Consequently, the propriety of KSh.15,583,858 expenditure could not be ascertained for the year ended 30 June 2018.

Submission by the Accounting Officer

1131) The Accounting Officer submitted that the State Department paid rent to the tune of KSh.15,583,858 to the following firms as per the table below;

PAYEE	PERIOD	PV.NO.	AMOUNT
Kenya Re-Insurance	Aug-17	0064	4,536,845.80
National Bank	Nov-17	001290	1,500,000.00
National Bank	Nov-17	001290	647,040.00
Kenya Re-Insurance	Dec-17	00963	4,536,845.70
Kenya Re-Insurance	Feb-18	04791	4,363,126.20
TOTAL			**15,583,857.70**

Please note that the above payments were supported by valid lease agreements which were attached for perusal by the Committee.

Committee Observations and Findings

1132) The Committee observed and found that:

1) The explanation given by the Accounting with regard to the payment of KSh.15,583,858 being rent of office space for various State Department offices was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1133) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

1134) <u>With regard to Paragraphs 335 to 336, the Committee marked the matter as resolved in its Report of 2016/2017.</u>

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

337. Audit Committee

1135) As required by Section 73(5) of the Public Finance Management Act (2012) the State Department did have an Audit Committee in place. However, the Minutes of the deliberations of the Committee were not availed for audit review. In the absence of the minutes, it has not been possible to confirm that the Audit Committee's roles of ensuring the integrity of the State Department's financial information, its system of internal controls, and the legal and ethical requirements provided for in Section 3.2 of gazette notice No.2690 dated 15 April 2016 were achieved.

Submission by the Accounting Officer

1136) The Accounting Officer submitted that in 2016, the State Department did not have the Audit Committee in place. The Accounting Officer stated that we now have the Committee in place as per the attached Kenya gazette and copies of minutes.

Committee Observations and Findings

1137) The Committee observed and found that:

1) The Audit Committee was now in place as per the Kenya gazette notice and copies of minutes which were attached for perusal; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1138) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting**

documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

DONOR FUNDED PROJECTS

KENYA PRIMARY EDUCATION DEVELOPMENT (PRIEDE) PROJECT (CREDIT NO. TFO18863)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

338. Inaccuracies in the Financial Statements

1139) The statement of receipts and payments for the year ended 30 June 2018 reflects total expenditure amounting to KSh.2,259,784,105 while records available in the IFMIS report for the same period reflects expenditure of KSh.2,274,469,102 resulting in a variance of KSh.14,684,997 which has not been explained or reconciled.

1140) In the circumstances, it has not been possible to confirm the accuracy and completeness of the expenditure of KSh.2,259,784,105 for the year ended 30 June 2018.

Submission by the Accounting Officer

1141) The Accounting Officer submitted that the total expenditure as per the statement of income and expenditure was KSh.2,269,209,204 and not KSh.2,259,784,105 as stated while the IFMIS figure was KSh.2,274,469,102 resulting in a variance of KSh.5,259,898. This variance occurred as a result of not having sufficient amount of money in the Project Account to make the payments. The payments were later cancelled in the IFMIS system and paid in the subsequent financial year 2018/2019. Attached for perusal by the Committee was a copy of the reversed vouchers and the cashbook closing balance of KSh.131,893.25.

Committee Observations and Findings

1142) The Committee observed and found that:

1) The explanation given by the Accounting Officer to confirm the accuracy and completeness of the expenditure of KSh.2,269,209,204 was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1143) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

339. Cash and Bank Balances

1144) Excluded from cash and cash equivalents balance of KSh.196,612,188 is an amount of KSh.1,326,538 being payments in bank not captured in the cash book some of which date back to the month of December 2017. The management has not explained the genesis of the payments. In the circumstances, the accuracy and completeness of the cash and bank balance of KSh.196,612,188 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1145) The Accounting Officer submitted that the bank reconciliation had payments in bank statement not in cashbook of KSh.1,326,538. This has since been reconciled and presented to the Auditors for verification. Copies of the vouchers and cashbooks showing when they were posted were attached for perusal by the Committee.

Committee Observations and Findings

1146) The Committee observed and found that:

1) The explanation given by the Accounting Officer to confirm the accuracy and completeness of the cash and bank balance of KSh.196,612,188 as at 30 June 2018 was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1147) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

1148) <u>With regard to Paragraph 340, the Committee marked the matter as resolved in its Report of 2016/2017.</u>

REPORT ON COMPLIANCE WITH LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for conclusion

341. Unresolved Prior Year Matters

341.1 Non-Compliance with Approved Budget

<u>**The Committee marked the matter as resolved in its Report of 2016/2017.**</u>

341.2 Irregular Procurement of Consultants

1149) As previously reported, the Ministry engaged ten (10) consultants to train 4000 schools on school improvement plan (SIP) through consultant's qualification selection method of procurement for ten regions in accordance with the provisions of Public Procurement and Assets Disposal Act, 2015 and the World Bank Guidelines on selection and employment of consultants of January 2011 (Revised July 2014). Examination of procurement and payment records for the consultancy services revealed that the ten (10) consultants were contracted at a total contract sum of KSh.251,637,245. However, scrutiny of the tender evaluation reports of the request for expression of interest (REOI) revealed that no detailed analysis on how the firms were evaluated and ranked by the tender evaluation committee was availed for audit review.

1150) Further, examination of payment and contract records revealed that on 28th October, 2016 the Ministry entered into a contract for carrying out school improvement plan (SIP) training for key stakeholders in the Mau A Region with a consulting firm at a contract sum of KSh.24,721,420. However, the tender evaluation committee report revealed that only two firms were shortlisted in the region. The Ministry awarded the contract without obtaining prior no objection from the Bank as required by the World Bank guidelines on procurement of consultants which stipulates that, if less than three firms are shortlisted the borrower should seek for a no objection from the bank. In the circumstances, the procurement of the consultants was done contrary to the Bank's procurement guidelines. The project management was therefore in breach of law and the propriety of expenditure totalling KSh.251,637,245 could not be confirmed to be proper charge to public funds for the year.

<u>**PAC Recommendation – 2016/2017**</u>

1151) That the Cabinet Secretary should within three (3) months after adoption of this report embark on development of policy guidelines for similar Programmes. The guidelines should address criteria for selection of regions and equitable sharing of resources. The Accounting Officer informed the Committee that the Policy review and harmonization was ongoing.

1152) The Committee observed that Paragraph 342 and 345 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

GOK/UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME

REPORT OF THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1153) With regard to Paragraph 370 on Cash and Cash Equivants, the Committee marked the matter as resolved in its Report of 2016/2017.

371. Unsupported Expenditure

1154) As was the case in the previous year, the statement of receipts and payments for the year ended 30 June 2018 reflects payments for purchase of goods and services totaling to KSh.134,826,523. However, direct payments of KSh.114,711,204 representing 85.1% were not supported.

1155) In the absence of the supporting documents and analyses, it has not been possible to confirm the propriety of expenditure totaling KSh.114,711,204 for the year ended 30 June 2018.

Submission by the Accounting Officer

1156) The Accounting Officer admitted that during the year under review there were no disclosures on direct payments to specific activities amounting to KSh.114,711,204.00. This expenditure relates to direct payments made by UNICEF. The ministry wrote to UNICEF requesting for a detailed report of the expenditure as evidenced by the documents which were attached for perusal by the Committee.

Committee Observations and Findings

1157) The Committee observed and found that:

1) The GOK/UNICEF Education for Young People Programme among other programmes were fully funded by UNICEF directly making it difficult for the State Department of Basic Education and other Departments to supervise and account for the funds;
2) It was necessary for the National Treasury to fully engage with UNICEF to find the best way out to ensure the government of Kenya as the beneficiary of these programmes is fully involved in supervision of the their implementation; and
3) The matter therefore remained unresolved.

Committee Recommendations

1158) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting**

documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officer must at all times ensure that they adhere to the provisions of Section 73(5) of the Public Finance Management Act 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
5) **Within three months of tabling and adoption of this report, the Cabinet Secretary for the National Treasury should engage with UNICEF to develop guidelines to ensure the government of Kenya as the beneficiary of these programmes is fully involved in supervision of their implementation.**

372. Unapproved Excess Expenditure

1159) The statement of comparative budget and actual amounts reflects total budgeted expenditure of KSh.105,000,000 against actual expenditure of KSh.134,826,523 thus resulting to over expenditure of KSh.29,826,523 or 28% of the total budget.

1160) However, no evidence was provided to confirm whether the excess expenditure was approved by the National Treasury. In the circumstances, the validity of over expenditure of KSh.29,826,523 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1161) The Accounting Officer submitted that the statement of comparative budget and actual amounts for the previous financial year 2017/18 reflected a total budgeted expenditure of KSh.105,000,000 against actual expenditure of KSh.134,826,523 thus resulting to over expenditure of KSh.29, 826,523 or 28% of the total budget. As in the case of the previous years, high variance is due to over expenditure on AIA by UNICEF compared to what was budgeted for in the approved estimates. This therefore means that the ministry can only journalize the expenditure that can be accommodated by the budget as per the approved estimates only hence the variance.

Committee Observations and Findings

1162) The Committee observed and found that:

1) The Accounting Officer provided correspondence to confirm that the excess expenditure of KSh.29,826,523 or 28% of the total budget was approved by the National Treasury; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1163) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting**

documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

373. Non-Availability of Key Project Information

1164) The following Project documents were not availed for audit review; Project Contractual Agreement, Programme Design Report, Project Implementation Manual, GOK-UNICEF Policies, Work plan and Activities Report. It has therefore not been possible to ascertain if the project was meeting its expectation and mandate to the Kenyan citizens and implemented as per contract agreement.

Submission by the Accounting Officer

1165) The Accounting Officer submitted that UNICEF Programs for various government ministries are coordinated centrally at the National Treasury. The programs are continuous and change from time to time depending with the circumstances. In the implementation of UNICEF programs documents such as project implementation manual, Program Design reports do not exist.

Committee Observations and Findings

1166) The Committee observed and found that:

1) The explanation given by the Accounting Officer on unavailability of some project documents with regard to UNICEF Programme was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1167) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

374. Programme Progress Reports

1168) The statement of receipts and payments for the year ended 30 June 2018 indicate that KSh.134,826,523 had been expended by the project in respect of purchase of foods and services. However, progress report on the various expenditure components totalling KSh.1,356,536,939 as at 30 June 2018 were not availed for audit review. In the circumstances, it has not been possible to verify the extent to which the programme achieved its objectives and output targets for the year under review. Further, it has not been possible to ascertain if value for money was obtained by the State Department on the money expended in this project.

Submission by the Accounting Officer

1169) The Accounting Officer submitted that majority of the UNICEF programs are implemented directly by UNICEF through direct payments with the ministry implementing very few activities. UNICEF does not provide reports of the extent of implementation of its programs and therefore a gap exists.

Committee Observations and Findings

1170) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to direct implementation of GOK/UNICEF Education for Young People Programme was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1171) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

1172) <u>The Committee observed that Paragraph 375 and 376 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

13.0. STATE DEPARTMENT OF VOCATIONAL AND TECHNICAL TRAINING

FINANCIAL STATEMENTS FOR VOTE 1064

Dr. Julius Jwan Ouma, the Accounting Officer for the State Department of Vocational and Technical Training (Vote 1064) appeared before the Committee on 8th September 2020 to adduce evidence on the Audited Financial Statements for the State Department of Vocational and Technical Training (Vote 1064) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Kobia Wakamau A. - Secretary Administration**
2. **Mr. Joseph O. Nyamora - Assistant Accountant General**
3. **Mr. Antony Masinde - Chief Finance Officer**

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

347. Cash and Cash Equivalents

347.1 Bank Reconciliation Statement

1173) The statement of assets and liabilities as at 30 June 2018 reflects cash and cash equivalents balance of KSh..108,647,577 out of which an amount of KSh..45,716,743 for the recurrent accounts whose bank reconciliation statements was not availed for audit review. In the absence of bank reconciliation statement, the accuracy of the cash and cash equivalents figure of KSh..108, 647,577 as at 30th June 2018 could not be confirmed.

Submission by the Accounting Officer

1174) The Accounting Officer submitted that the bank reconciliation has been availed to the auditors for review.

Committee Observations and findings

1175) The Committee observed and found that:

1) The Accounting Officer did not comply with Regulation 90(1) of the PFM (National Government) Regulations, 2015 which requires Accounting Officer to ensure bank accounts reconciliations are completed every month and a bank reconciliation statement submitted to the National Treasury not later than the 10th of the subsequent month with a copy to the Auditor-General.
2) The Accounting Officer failed to provide bank reconciliation statement to the Auditor-General thereby committing an offence of financial misconduct under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine of up to 10 million and or jail term of up to five years;
3) The bank reconciliation statement were later provided to the Auditor-General; and
4) The Committee marked the matter as resolved.

347.2 Reversal of Bank Reconciliation Items

1176) As reported in the previous year, excluded from the cash and bank balances of KSh..156,769,047 as at 30th June, 2017 is a payment in the cash book not in the bank statement amounting to KSh..600,000 relating to development account which was not been reversed in the cash book in the financial year 2016/2017. The payment has still not been reversed in the cash book as at 30 June 2018. Non reversal of the payment affected the closing cash and cash equivalents balance.

Submission by the Accounting Officer

1177) The Accounting Officer submitted that a figure of KSh..600,000 was in the cashbook and not in the bank statement. This was as a result of payment to Rwika (also referred to as JJ Nyagah) Technical Institute which was in a schedule failed to go through in the IFMIS system but whose amount in the voucher was posted erroneously in the cash book without removing unpaid amount. This amount of KSh.. 600,000 has been reconciled and availed to auditors for review.
The same was cleared in the previous audit.

Committee Observations and findings

1178) The Committee observed and found that:

1) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure reversal of bank reconciliation Items of KSh.. 600,000;
2) The amount was later reversed and the bank reconciliation statement revised and provided to the Auditor-General; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1179) The Committee recommended that:

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

348. Outstanding Imprest

1180) Note 9 to the financial statements for the year ended 30 June 2018 reflects KSh..13,366,521 as outstanding imprest while the manual imprest register reflects a nil balance. The IFMIS imprest register for the same period reflects a balance of KSh..9,441,138. No explanation was been given for the variance in the three sets of records which should in normal circumstances reflect the same balance.

1181) In addition, a schedule for the outstanding District suspense figure of KSh..1, 463,501 was not provided for audit review.

Submission by the Accounting Officer

1182) The Accounting Officer submitted that by the end of financial year which ended on 30th June 2018 all imprest were surrendered as was shown by the register. There was a technical problem with IFMIS system which was later rectified and the register has been updated. IFMIS outstanding register have been availed to auditors for review.

Committee Observations and findings

1183) The Committee observed and found that:

1) The Accounting Officer breached of Section 197 (1) of the PFM Act, 2012 by not providing schedule of outstanding district suspense account balance of KSh.. 1,463,501 for audit review. This is an offence of financial misconduct under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine of up to KSh..10million and or jail term of up to five years;
2) The Accounting Officer did not take any action in line with Regulation 92 (6) of the PFM (National Government) Regulations, 2015 for the failure to account for or surrender the imprest on the due date? It is a requirement that Accounting Officers immediately recover full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate;
3) The issue regarding the outstanding District suspense figure of KSh..1, 463,501 was not addressed by the Accounting Officer;
4) The Committee however observed tat Imprest was later recovered, Imprest register updated verified and agreed to by the Auditor-General; and
5) The Committee marked the matter as resolved.

Committee Recommendations

1184) The Committee recommended that:

Upon three months of tabling and adoption of this report, the Accounting Officer should submit the schedule of outstanding district suspense account balance of KSh..1,463,501 for audit review. Failure to this the Accounting Officer shall be in contravention of Section 197 (1) (k) of the PFM Act, 2012.

Other Matter

349. Budget Analysis

1185) According to the statement of comparison of budget and actual amounts, the State Department had an approved budget of KSh..13,393,068,261 against actual expenditure of KSh..10,681,585,024 resulting to an under absorption of KSh..2,718,379,187 or 28% of the total budget as detailed below:

1186) The implication of the under absorption of the budget is that the State Department did not offer services envisaged for delivery to the Citizens during the year under review. In addition the department spent KSh..6,913,950 in the excess of approved budget. No supporting evidence was availed to show that the over expenditure was approved.

Submission by the Accounting Officer

1187) The Accounting Officer submitted that: -

a) Under absorption of KSh..2,718,379,187

1188) The under expenditure of KSh..2,718,379,187 is attributed to the failure to capture the transfer of the conditional grant to counties amounting to KSh..2 Billion in the IFMIS system yet the funds had been disbursed to the counties by the National Treasury.

b) Over expenditure approval

1189) The over expenditure of **KSh..6,913,950** was due to budget cuts made in the supplementary budget under the item compensation of employees.

Committee Observations and findings

1190) The Committee observed and found that:

1) The Accounting Officer breached the law by failing failed to avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;
2) The supporting documents were later on provided verified and agreed to by the Auditor-General; and
3) The Committee marked the matter as resolved.

Committee Recommendation

1191) The Committee recommended that:

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

350. Purchase of Information, Communication and Technology (ICT) Equipment

1192) The statement of receipts and payments reflect a figure of KSh..6,850,983,600 under use of goods and services. The figure include an amount of KSh..6,509,182,533 for purchase of specialized materials and services as disclosed in Note 4 to the financial statements, which also includes an amount of KSh..339,347,580 spent in the procurement of ICT equipment, furniture and fittings for various technical training institutions from nine (9) firms. However, the approved procurement plan for the year was not availed for audit review. It was therefore not possible to confirm that the items were in the procurement plan of the State Department for Vocational of Technical Training.

1193) Further, Bidders original tender documents were not availed for audit review and therefore the validity of the procurement process could not be ascertained for the year ended 30 June 2018.

In addition, tender evaluation was undertaken 34 days after the tender opening on 19 April 2018 and forty-one (41) days for ICT equipment and furniture and fittings respectively contrary to the provisions of section 80 (6) of the Public Procurement and Asset Disposal Act 2015 which allows a maximum of 30 days after the opening of the tenders.

1194) Furthermore, the appointment letters for the tender opening and evaluation committees were not availed for audit review and hence it's not clear if the members who performed the duties on 19 April 2017 and 15 May 2017 were appointed by the Principal Secretary as per the Public Procurement and Assets Disposal Act 2015. Further, the evaluation report prepared did not have scores awarded by each evaluator neither were the individual score sheet availed for audit review.

1195) In addition, the Inspection and Acceptance Committee members were paid KSh..5, 917,800 for inspection and acceptance of various equipment and construction works at various technical training institutions. The officers had not been appointed formally into the Inspection and Acceptance Committees as required by the Public Procurement and Asset Disposal Act Section 48 (1) which requires that an accounting officer of a procuring entity to establish an ad-hoc committee known as the Inspection and Acceptance committee. In the circumstances, the State Department is in breach of the law.

Submission by the Accounting Officer

1196) The Accounting Officer submitted that this procurement commenced in the financial year (2016/2017) and was completed during the audited financial year 2017/2018.

The table below summarizes the key audit issues raised in the paragraph and the responses: -

S.No.	Audit Queries	Response	Appendix
1	Procurement plan	The IFMIS approved procurement plan for 2016-2017 is attached	Appendix 4
2	Bidders Original Tender Documents	Tender documents were availed	Appendix 4
3	Evaluation period/ timeliness	The evaluation was done 4 days beyond the stipulated 30days due to upsurges in the e-procurement platform.	Appendix 4
4	Appointment letters for Tender opening committee and for evaluation	The Tender Opening and evaluation Committee was appointed on 3rd April 2017 and 3rd May 2017 respectively	Appendix 4
5	Individual Score sheets for the evaluation committee	Score sheets availed	Appendix 4
6	Appointment letters for inspection and acceptance committee members	Appointment of inspection and acceptance committee was appointed on 27th November, 2018	Appendix 4

Committee Observations and findings

1197) The Committee observed and found that:

1) The Accounting Officer failed to provide approved procurement plan; original tender documents from bidders; individual evaluation score sheets; and appointment letters for the tender opening and evaluation committees for audit review? This is an offence

of financial misconduct under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine of up to KSh..10million and or jail term of up to five years;

2) The Accounting Officer contravened Section 80(6) of the PPAD Act, 2015 which allows a maximum of 30days for evaluation after tender opening;
3) The explanation given by the Accounting Officer with regard to the irregular payment of KSh..5,917,800 to the members of the Inspection and Acceptance Committee not appointed formally in line with Section 48(1) of the PPAD Act, 2015, was persuasive. Supporting documents were provided verified and agreed to by the Auditor-General; and
4) The Committee marked the matter as resolved.

Committee Recommendation

1198) The Committee recommended that:

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

351. Disbursements to Technical and Vocational Institutions

351.1 Excess Disbursement

1199) Note 5 to the financial statements reflects transfers to other government units of KSh..3,514,285,398 out of which KSh..2,118,483,203 is in respect of recurrent grants. The recurrent grants to technical training and vocational institutions were to be disbursed based on the following criteria: New Technical Institutions were to receive KSh..2million per year: Those with less than 500 students were to receive KSh..12 million, those with between 501 to 999 students KSh.r.20 million; those with between 1,000 to 2,000 students KSh..24 million; and those with over 2,000 students KSh..28 million.

1200) However, examination of records held by the State Department revealed that 58 institutions received a total of KSh..1,418,011,801 instead of the entitled KSh..782,000,000 based on the set criteria resulting to excess disbursement of KSh..636, 011,801. No explanation has been given to justify the excess payment. Further, KSh..22m was disbursed to Rwika Institute. However the Institution was not listed among the beneficiary institutions. In the circumstances it was not possible to confirm the authenticity of the disbursements.

Submission by the Accounting Officer

1201) The Accounting Officer submitted that: -

a) Excess Disbursement

The criteria for disbursing recurrent grants is as shown in the table below:

SN.	Criteria	Amount
1	Institutions with own budget lines	Amount as indicated in the approved estimates
2	New Institutions	KSh.. 2,000,000 per year
3	Institutions with less than 500 trainees	KSh.. 12,000,000 per year
4	Institutions with between 501 - 999 trainees	KSh..20,000,000 per year
5	Institutions with between 1000-2000 trainees	KSh..24,000,000 per year
6	Institutions with 2000 and above trainees	KSh..28,000,000 per year

1202) The table below illustrates the disbursement of recurrent grants to the various institutions based on the above criteria

S.NO.	Category of Institution	Response	Annexes
1	National Polytechnics	Disbursed based on the approved estimates	Copy of printed estimates For FY 2017/2018
2	Special needs Institutions	Disbursed as per the approved estimates	Copy of printed estimates For FY 2017/2018
3	TTIs,ITs,ISTs and TVCs	**Criteria:** **a)** Enrolment was used as per the above enrolment criteria **b)** The following – new institutions had made requests on operationalization funding	

c) Disbursement to Rwika (JJ Nyaga TTI)

1203) In the list Jeremiah TTI was included. Rwika TVC name was changed to Jeremiah Nyaga TTI but IFMIS and payment details did not changed and that is why Rwika was paid.

Committee Observations and findings

1204) The Committee observed and found that:

1) The Accounting Officer disbursed in excess of KSh..636million in violation of the Department's own disbursement criteria;
2) The Accounting Officer disbursed KSh..22million to Rwika Institute despite not being among the beneficiary institutions;
3) The explanation given by the Accounting Officer with regard to the irregular payment of KSh..5,917,800 to the members of the Inspection and Acceptance Committee not appointed formally in line with Section 48(1) of the PPAD Act, 2015, was persuasive. Supporting documents were provided verified and agreed to by the Auditor-General; and
4) The Committee marked the matter as resolved.

351.2 Development Disbursements

1205) A total of KSh..1,066,152,564 was disbursed as Development Grants to Special Needs Institutions, National Polytechnics, Technical Training Institutions and Technical Vocational Centers without a basis and purpose of allocation. In the circumstances it has not been possible to confirm the validity of the development expenditure of KSh..1,066,152,564.

Submission by the Accounting Officer

1206) The Accounting Officer submitted that: -

a) Basis of Disbursement

The funds were disbursed to various Institutions based on the approved development budget in the financial year 2017/2018. Copy of Development printed estimates annexed.

b) Purpose of Disbursement

The table below illustrates the purpose of the utilization of the funds:

I. Technical Training Institutes and Institutes of Technology

S/No.	Institution	County	Amount Disbursed KSh.	Purpose
1.	Aldai Technical Training Institute	Nandi	1,500,000	construction of single storied 8 no. classrooms
2.	Baringo Technical Training Institute	Baringo	3,295,000	Construction of Administration and Tuition Block/Classrooms
3.	Bondo Technical Training Institute	Siaya	4,581,918	construction of Applied Science Complex Phase I
4.	Bumbe Technical Training Institute	Busia	4,000,000	Construction of Science Complex
5.	Bureti Technical Training Institute	Kericho	3,100,000	construction of tuition block
6.	Bushiangala Technical Training Institute	Kakamega	3,980,000	completion of Twin Workshop
7.	Butere Technical Training Institute	Kakamega	1,500,000	construction of administration and library block
8.	Ekerubo Gietai Technical Training Institute	Nyamira	5,423,905	construction of a library
9.	Emining Technical Training Institute	Baringo	3,195,000	Construction of Automotive Garage/Agriculture Workshop/Electrical and Electronics Workshop
10.	Gitwebe Technical Training Institute	Nyamira	3,050,000	construction of a Tuition Complex
11.	Godoma Technical	Kilifi	3,080,000	construction of Staff Houses and Fencing

	Training Institute			
12.	Kaiboi Technical Training Institute	Nandi	3,500,000	construction of the proposed science and engineering workshop
13.	Karumo Technical Training Institute	Meru	3,500,000	construction of Perimeter Wall
14.	Katine Technical Training Institute	Machakos	2,750,000	construction and equipping of electrical and electronics workshop
15.	Keroka Technical Training Institute	Kisii	3,500,000	construction of library Phase III
16.	Kiirua Technical Training Institute	Meru	2,500,000	Completion and equipping of library Complex
17.	Kisiwa Technical Training Institute	Bungoma	2,500,000	construction of library and ICT Centre
18.	Koshin Technical Training Institute	Uasin Gishu	1,500,000	construction of ablution block and water system
19.	Maasai Mara Technical and Vocational College	Narok	1,500,000	Fencing and electrical installations
20.	Mandera Technical Training Institute	Mandera	1,676,822	construction of an automotive workshop
21.	Masai Technical Training Institute	Kajiado	2,500,000	construction of perimeter fence, sentry house, gate and cabro paving
22.	Mathenge Technical Training Institute	Nyeri	2,980,856	construction of the Proposed Food and Beverage Department Complex
23.	Matili Technical Training Institute	Bungoma	4,916,600	construction of food, beverage and institutional management complex
24.	Mawego Technical Training Institute	Homa Bay	3,750,000	Erection and Completion of Institutional Management Block
25.	Michuki Technical Training Institute	Murang’a	3,770,000	construction of electrical and electronics Workshop
26.	Mitunguu Technical Training Institute	Meru	2,500,000	construction of Administration Block
27.	Mukiria Technical Training Institute	Meru	4,000,000	construction of Mechanical and Electrical Workshop
28.	Mukurwe-ini Technical Training Institute	Nyeri	3,500,000	construction of library and ICT Complex
29.	Musakasa Technical Training Institute	Bungoma	3,500,000	Erection and Completion of Tuition Block

30.	Nairobi Technical Training Institute	Nairobi	9,551,355	construction of Administration, Health and Applied Sciences Block
31.	Nkabune Technical Training Institute	Meru	3,750,000	construction of a Perimeter Wall
32.	Ol'Lessos Technical Training Institute	Nandi	2,730,000	construction of Hospitality Management Centre
33.	PC Kinyanjui Technical Training Institute	Nairobi	5,000,000	construction of Mechanical Engineering Workshop
34.	Rift Valley Technical Training Institute	Uasing Gishu	2,500,000	construction of virtual learning Centre
35.	Shamberere Technical Training Institute	Kakamega	5,405,000	completion of mechanical workshop
36.	Siala Technical Training Institute	Migori	1,500,000	construction of electrical workshop
37.	Sot Technical Training Institute	Bomet	5,000,000	construction of a Twin Laboratory, Twin Workshop and Main Gate
38.	Thika Technical Training Institute	Kiambu	4,000,000	construction of library and resource Centre
39.	Tseikuru Technical Training Institute	Kitui	2,650,000	Construction of Food and Beverage training restaurant complex
40.	Wote Technical Training Institute	Makueni	2,500,000	completion of perimeter wall
41.	Ziwa Technical Training Institute	Uasin Gishu	2,500,000	construction of a Twin Workshop, Classrooms and Office Block
42.	Coast Institute of Technology	Taita Taveta	2,500,000	construction of perimeter wall
43.	Friends College Kaimosi	Vihiga	2,500,000	construction of Mechanical, Building and Civil Engineering Workshop
44.	Kiambu Institute of Science and Technology	Kiambu	2,500,000	completion of the construction of Library/ICT Resource Centre
45.	Nyandarua Institute of Science and Technology	Nyandarua	2,500,000	construction and completion of learning facilities Phase VI
46.	Ramogi Institute of Advanced Technology	Kisumu	2,500,000	construction of mechanical engineering workshop
47.	Rwika Technical Institute	Embu	2,146,354	equipping of Multi-Purpose Complex phase II
48.	Sang'alo Institute	Bungoma	2,500,000	construction of Food and

	of Science and Technology			Beverage Training Complex
49.	Siaya Institute of Technology	Siaya	2,500,000	construction of a Library Complex
Total			**156,143,905**	

II. National Polytechnics

S/No.	Institution	County	Amount Disbursed KSh..	Purpose
1.	Kisumu National Polytechnic	Kisumu	25,794,000	construction of an incinerator and sports pavilion, and road improvement
2.	Eldoret National Polytechnic	Uasin Gishu	10,747,500	construction of a library complex
3.	Kenya Technical Teachers College	Nairobi	13,613,500	construction of institutional management Centre
4.	Kabete National Polytechnic	Nairobi	4,235,496	construction of Ablution Block and related drainage works
5.	Kitale National Polytechnic	Trans Nzoia	3,582,500	construction of food and beverage complex
6.	Meru National Polytechnic	Meru	4,872,410	construction of stone perimeter wall
7.	Kenya Coast National Polytechnic	Mombasa	7,165,000	construction of a training restaurant
8.	Nyeri National Polytechnic	Nyeri	8,279,729	construction of Tuition Block Phase III
9.	Sigalagala National Polytechnic	Kakamega	5,373,750	construction of a Tuition/Administration Block
10.	North Eastern National Polytechnic	Garissa	3,582,500	completion of the construction of the institution's driveway
11.	Kisii National Polytechnic	Kisii	3,861,935	Construction of a Tuition Complex
Total			**91,108,320**	

III. Special Needs Technical Training Institutions

S/No.	Institution	County	Amount Disbursed KSh..	Purpose
1.	Machakos Technical Institute for the Blind	Machakos	9,439,887	construction of a dining hall
2.	Karen Technical Training Institute for the Deaf	Nairobi	9,439,887	construction of prefabs to pave way for AfDB/GoK Project
3.	Vocational Training Centre for the Blind and Deaf - Sikri	Homa Bay	9,439,887	construction of a tuition block complex
4.	St. Joseph's	Siaya	9,439,887	construction of mechanical

	Technical Institute for the Deaf, Nyang'oma			workshop
Total			**37,759,548**	

Committee Observations and findings

1207) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the irregular payment of KSh..1billion to various institutions, was adequate;
2) The supporting documents were provided, verified, and agreed to by the Auditor-General; and
3) The Committee therefore marked the matter as resolved.

352. Unresolved Prior year matters

352.1 Wasteful Expenditure

1208) As reported in the previous year, the statement of receipts and payments for the year ended 30 June, 2017 reflects use of goods and services figure of KSh..3, 497,473,588. This figure includes an amount of KSh..159, 817,204 paid to a clearing and forwarding firm on 29 June 2017 in respect of interest, storages delays and court on a contract signed in 2011 for the previous of clearance and inland logistics services for the government of Kenya-China Project. Although the payment of KSh..159, 817,204 was supported by a High Court decree and Certificate of Order both dated 7 September, 2016 documents availed for audit review indicate that the amount was arrived at after the consent between the clearing firm and the defendant (Ministry). Further, examination of the decree document reflects a contract sum of KSh..137, 135,407 while the contract signed on 13 December, 2011 indicates a contract sum of KSh..59, 954,926. No explanation was availed for audit review on how the contract sum changed from the initial KSh..59,954,926 to KSh..137,135,407 and finally to KSh..159,817,214.

1209) In addition, it is not clear and the management has not explained the basis of the interest charged at 3% per month (36% per year) instead of 6% per annum of the principal sum as spelt out under Section 26 of the Civil Procedure Act or between 12% - 14% per annum usually applied in settlement of court cases. Further, no explanation has been provided as to why the Ministry consented to pay KSh..159, 817,204 instead of appealing the case considering the huge interest differences. Besides, no judgment has been availed for audit review to support the basis of the payment. In the circumstances, the expenditure of KSh..159, 817,204 could not be confirmed as a proper charge to public funds for the year ended 30 June 2017.

1210) The Committee discussed the matter in the Report of 2016/2017. It recommended that the State Department should within 3 months of the adoption of the report forward the relevant document to the Auditor General. This was done vide the letter Ref. No. MOE/VTT/ADM/2/80/65 dated 7th August, 2020. Then Auditor General was yet to verify the documents.

352.2 Delays in Completion of Projects

1211) As reported in the previous year, the statement of receipts and payments for the year ended 30 June, 2017 reflects transfers to other government unit figure of KSh..4,329,951,710 which included KSh..1,037,244,895 disbursed to various institutions for settlement of claims from various contractors. These claims arose when the Ministry awarded contracts for the construction of additional seventy (70) new technical training institutions across the country at a total contract sum of KSh..3, 821,946,495 for the period of one year.

1212) However, review of projects' report of December 2017 indicated that all the (70) institutions are incomplete yet the contract period has already lapsed. The project was therefore way behind schedule.

1213) In addition, the State Department for Vocational and Technical Training had earlier embarked on construction of sixty(60) new institutes in October 2014 at a total contract sum KSh..3,246,940,967.92 and for a contract period of one year. A review of the project progress report dated December 2017 further revealed that twenty four(24) institutes worth KSh..1,284,489,490 were still incomplete despite the contract period having elapsed and the ministry had released its entire contribution totaling KSh..2,246,940,968.

1214) In the circumstances, it was not possible to confirm when and if the projects will be completed and if the stakeholders will ever get value for money from the public resources KSh..5,106,436,447.

Submission by the Accounting Officer

Current status

1215) The table below indicates the current status of the 24 TVCs as submitted to the Auditor General.

Table

S/NO	Mentoring Institutions	New TVC	Percentage Work Done	Certificate of Practical Completion Ref. No.
1	Matili TTI	Bungoma North	100	
2	Bumbe TTI	Bunyala	100	
3	Friends College Kaimosi	Ebukanga	100	
4	RVIST	Eldama Ravine	100	
5	NE National Polytechnic	Elwak	100	
6	TUM	Fayya	100	
7	Mawego TTI	Rangwe TTI	100	
8	N'kabune TTI	Kaelo	100	
9	TUK	Kasarani	100	
10	Rongo University	Kendege	100	

	College			
11	RVIST	Kipsoen	100	
12	KIST	Lari	100	
13	KIST	Nachu	100	
14	Kisumu Polytechnic	Nyakach	100	
15	Kisii National Polytechnic	Riamo	100	
16	Eldoret Polytechnic	Turkana East	100	
17	Nairobi TTI	Wajir South	100	
18	Meru NP	Saku	65	Project Retendered
19	Meru NP	Samburu West	90	
20	Kitale NP	Sigor	85	
21	Rongo University	Kakrao	75	
22	Kenya Coast NP	Kaloleni	95	Awaiting Certificate of practical completion
23	Kenya Coast NP	Lamu East	75	
24	NE National Polytechnic	Balambala	65	

1216) Out of the twenty four new TVCs seventeen are complete and certificate of practical completion are attached. The remaining works of the seven sites are ongoing.

Action taken by the Ministry to ensure that the nine TTIs are completed

1. **Nine TTIs in Counties**

1217) Out of the nine TTIs, six TTIs (Kimasyani, Kerio valley, Tharaka, Samburu, Laikipia East, and Tana River) are complete and the status of the remaining three are in the table below:

S/No.	Institution	Status	Remarks
1	Garbatula TTI	45%	Works are ongoing
2	Lamu Mpeketioni TTI	65%	Contract termination under process
3	Chepararia TTI	Building collapsed	Restitution and re-tendering underway

1218) The Committee discussed the matter in the Report of 2016/2017. It recommended that the Accounting Officer should within three months of the adoption of the report, ensure that the remaining 24 TVC are complete and forward completion certificate to the Auditor General for audit verification. 17 Certificates of completion were availed verified and agreed to. The remaining 7 institutions are between 65% and 95% completion level.

352.3 Construction of Septic Tanks in nine (9) New Technical Institutes

1219) As previously reported, the statement of receipts and payments for the year ended 30 June, 2017 reflected transfer to other government unit figure of KSh..4,329,951,710 which includes payments of KSh..39,929,939 to eight (8) technical training institutes towards construction of septic tanks. This project was preceded by the construction of nine (9) technical institutes during the year 2014/2015 in counties at a contract sum of KSh..487, 865,560.

1220) However, available information indicated that the institutes were incomplete while building constructed to host Chepareria TTI collapsed. Although the management has explained that a team of experts is carrying out investigation on the cause of the collapsed building, the outcome in unknown. It is not clear and management has not explained why the initial project worth KSh..487, 865,560 has not been completed as at the date of this report. Further, the management has not explained why the construction of septic tanks was not included in the main contract sum.

1221) In the circumstances, it has not been possible to confirm the validity of the expenditure of KSh..39, 929,939 for the year ended 30 June 2017 incurred on construction of septic tanks.

1222) <u>The Committee discussed the matter in the Report of 2016/2017. The Committee recommended that the Accounting Officer should, within three (3) months of the adoption of this report submit to the National Assembly, a detailed report highlighting a road map for the progression of the project to 100% completion of the project to ensure the project achieves value for money. Projects still far from completion.</u>

352.4 Procurement of Equipment for TTIs - Kenya – China Project

1223) As previously reported, the Government of Kenya through the then Ministry of Education, Science and Technology entered into a contract with AVIC International Holding Corporation for the Supply of Equipment under Kenya-China Project on establishment of Technical and Vocational Training (TVET) workshops at a total cost of US $ 166,618,659 later revised to US $ 158,785,183 (KSh..16, 402,509,403.90) through an addendum dated 25 May 2016.

1224) This project proceeded a previously negotiated project Contract No.ATE/KEZ/09M5409 with the same contractor for the supply of equipment to various TVET at a cost of US $ 133,427,833 (KSh.13, 743,066,799). However, minutes of the meeting on negotiations between AVIC International and GoK were not availed for audit review to confirm the considerations/terms of the contract. It was further noted that an essential component of the project, the Government of Kenya was to undertake civil works on construction of 130 Technical Training Institutes. However, a review of the status report dated December 217 indicates percentage of work done averaged 51% despite the fact first batch of equipment were delivered in December 2017. The project was therefore behind schedule. The Ministry did not provide reasons for the delay in project completion.

1225) In the circumstances, it has not been possible to confirm if and when the project will be completed and when the stakeholders will obtain the value for their public resources.

1226) It was further noted that the on 11 January, 2017 the State Department-VTT paid KSh..2,440,000,000 to the Principal Secretary Treasury deposit account for equipment under Kenya-China Project on establishment of Technical and Vocational Training Workshop in Kenya. However, no supporting analysis on how the KSh..2, 440,000,000 was utilized was availed for audit review. In the circumstances, it has not been possible to confirm the propriety of expenditure of KSh..2, 440,000,000 for the year ended 30 June.

Submission by the Accounting Officer

1227) The Accounting Officer submitted that the State department wrote to the National Treasury requesting for a copy of the minutes of the negotiation between Government of Kenya and China, Ref.no. MST/DTE/6/5/1 VOL.VII (51).
Committee observations and findings.

1228) <u>The Committee resolved the matter in the Report of 2016/2017. The committee (PAC) recommended that the Accounting Officer should within three (3) months of the adoption of this report submit minutes of negotiation between AVIC International Holding and GoK to the OAG for audit verification. The Committee therefore marked the matter unresolved.</u>

352.5 Payment of Rent without Valid Lease Agreements

1229) As reported in the previous year, the statement of receipts and payments for the year ended 30 June, 2017 reflects use of goods and service figure of KSh..3,497,472,558 and which includes payments totaling KSh..57,244,711 in respect of rentals of produced assets as disclosed in Note 3 to the financial statements. The figure of KSh..57, 244,711 also includes KSh..55, 369,049 being rent of office space for the various departments whose valid and current lease agreements with various landlords and property managers were not availed for audit verification.

1230) In the circumstances, it has not been possible to confirm that the rent paid of KSh..55, 369,049 was in line with the existing agreement and consistent with market rates.

Submission by the Accounting Officer

1231) The Accounting Officer submitted that both lease Agreements have been submitted for registration at the Lands Ministry.

1232) <u>The Committee discussed the matter in the Report of 2016/2017. The Committee recommended that the Accounting Officer should within three (3) months of the adoption of this report ensure that the Teleposta lease agreement is registered at the Lands Office. The Committee also recommended that the Accounting Officer should within three (3) months of the adoption of this report ensure that the ongoing negotiations for the lease of Uchumi House are concluded.</u>

<u>No feedback from Ministry of Lands and Physical Planning to date.</u>

352.6 Direct Procurement of Goods and Services

1233) As previously reported, the statement of receipts and payments for the year ended 30 June, 2017 reflects use of goods and services figure of KSh..3,497,472,558 and which includes payments totaling KSh..463,883 in respect of air tickets procured from suppliers through direct procurement. No reasons were given for direct procurement as opposed to competitive bidding. In the circumstances, the air tickets may have been overpriced and procurement was not in accordance Section 161 (2))d) Public Procurement and Assets Disposal Act 2015 on procedure for request for quotation which states that at least three persons shall submit their quotations prior to evaluation.

1234) <u>The Committee resolved the matter in the Report of 2016/2017. The Accounting Officer should strictly be adhering to procurement process as provided for in accordance with Section 161 (2))d) Public Procurement and Assets Disposal Act 2015 on procedure for request for quotation which states that at least three persons shall submit their quotations prior to evaluation.</u>

352.7 Pending Bills

352.7.1 Unclear Payments for Equipment for Vocational Training Centers

1235) As reported in the previous year, examination of payment records for the 2016/2017 revealed that the Department paid pending bills for the year 2015/2016 totaling KSh..8, 362,600 relating to procurement of tools and equipment for your polytechnics. However, scrutiny of the procurement records revealed that purchase of equipment for Youth Polytechnics had not been factored in the procurement plan for the year 2015/2016. This is contrary to Section 53 (8) of the Public Procurement and Asset Disposal Act 2015 which requires the Accounting Officer not to commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

Submission by the Accounting Officer

1236) The Accounting Officer submitted that the Department paid a pending bill amounting to KSh..8,362,600 relating to purchases of equipment for Youth Polytechnics. In FY 2015/2016 the State Department had a procurement plan: However the initial procurement plan purchase of tools and equipment were erroneously omitted. However the tools and equipment were necessary for learning and training of students in Youth Polytechnics hence necessitating the purchase. A copy of tools and equipment distribution list was provided for perusal by the Committee.

Committee Observations and findings

1237) The Committee observed and found that:

1) The Committee observed that the Accounting Officer contravened Section 45(3) of the PPAD Act, 2015 which requires that all procurement processes be within the approved budget and be planned through the annual procurement plan;

2) The Committee however observed that the appropriate payment vouchers, invoices and requisite authority from Accounting Officer and The National Treasury to pay the bills were availed and verified to be correct by the Auditor-General; and
3) The Committee marked the matter as resolved.

352.7.2 Unauthorized Payment of Pending Bills

1238) As previously reported, examination of pending bills revealed that during the year 2016/2017, the State Department of VTT paid KSh..1,695,000 and KSh..2,082,336 to Kenya Education Management Institute and Shawa Suppliers and General Contractors respectively. These two payments were however not included in the approved list of pending bills for the year 205/2016. No explanation has been provided for this anomaly. In the circumstances, it has not been possible to confirm that expenditure totaling KSh..3, 777,336 was a proper charge to public resources.

Submission by the Accounting Officer

1239) The Accounting Officer submitted that during the year under review, the State Department of VTT paid KSh..1, 695,000 and KSh..2, 082,336 to Kenya Education Management Institute and Shawa Suppliers and General Contractors respectively. The two payments were not included in the list of pending bills. The two pending bills had been erroneously omitted in the list of pending bills therefore they were not brought to the attention of the Directorate, by the time the approved list had been submitted to the National Treasury. The payments were made to KEMI for provision of training and accommodation for trainers in Youth polytechnics and Shawa Suppliers to enable the contractor to hand over the workshops for use by trainees. The payments were necessary to avoid incurring penalty claims from the service providers.

Committee Observations and findings

1240) The Committee observed and found that:
1) The explanation given by the Accounting Officer with regard to the payment of pending bills not in the approved list of pending bills was adequate; and
2) The Committee marked the matter as resolved.

352.8 Transfers to Other Government Units

1241) As previously reported, the statement of receipts and payments for the year ended 30 June 2017 reflects transfers to other government units figure of KSh..4,329,951,710 which includes payments totaling KSh..91,400,000 made to ten (10) Technical Institutes and seven (7) National Polytechnic towards renovation of workshops as summarize below:

Disbursement to TTIs and National Polytechnics for renovation of workshops

S/No	County	Institution	Amount
National Polytechnics			
1	Nyeri	Nyeri Polytechnic	6,000,000
2	Garissa	North Easter Polytechnic	6,000,000
3	Meru	Meru Polytechnic	7,000,000

4	Kakamega	Sigalagala Polytechnic	7,000,000
5	Kisumu	Kisumu Polytechnic	5,000,000
6	Kiambu	Kabete Polytechnic	5,000,000
7	Trans Nzoia	Kitale Polytechnic	5,000,000
Sub total			**41,000,000.00**
TTIs			
1	Kiambu	Thika TTI	4,140,000
2	Nairobi	Pc Kinyanjui TTI	5,140,000
3	Meru	Nkabune TTI	5,140,000
4	Kiambu	Kiambu IST	5,140,000
5	Bungoma	Katine	5,140,000
6	Mandera	Mandera TTI	5,140,000
7	Embu	Mukiria TTI	5,140,000
8	Bungoma	Musakasa TTI	5,140,000
9	Kakamega	Friends C. Kaimosi	5,140,000
10	Baringo	Koshim TTI	5,140,000
Total			**50,400,000**
Grand Total			**91,400,000**

1242) However, no evidence was availed for audit review showing how the institutions were identified and amount disbursed to each institution was arrived at.

1243) In the circumstances, it has not been possible to confirm the authenticity of payments totaling KSh..91, 400,000 to the ten (10) Technical Institutions and seven (7) National Polytechnics for the year ended 30 June 2017.

Submission by the Accounting Officer

1244) The Accounting Officer submitted that the State Department disbursed a total of KSh.91, 400,000 to seven national polytechnics and ten technical training institutes and institutes of technology. The institutions were identified on the basis of being earmarked to receive Chinese equipment. The equipment were many and bulky and could not be accommodated in the workshops in their then states. Kenya-China Project was to deliver equipment to 134 institutions; it was agreed that the equipment should be brought from China in batches of related trade areas. The first batch was to deliver Mechanical Engineering, Automotive Engineering and Electrical and Electronics; the above 17 institutions were to receive equipment in the above three discipline thus they were the first to benefit from the funds to carry out the renovations of the workshops. A joint site survey comprising officials from the Ministry and the Supplier (Avic International) was carried out to determine the level of renovation required. The amount disbursed to each institution was based on the level of renovations required to accommodate the equipment. The evidence on the utilization of the funds by the beneficiary institutions has been received from the institutions.

Committee Observations and findings

1245) The Committee observed and found that:

1) The explanation by the Accounting Officer with regard to the transfers to other government agencies adequate.
2) The Auditor-General had conducted physical verification of the institutions in question and established that the tools were put to use.
3) The Committee marked the matter as resolved.

353. Audit Committee

1246) As required by Section 73(5) of the Public Finance Management Act (2012) the State Department did have an audit Committee in place. However, the minutes of the deliberations of the committee were not availed for audit review. In the absence of the minutes, it has not been possible to confirm that the audit committee's roles of ensuring the integrity of the State Department' financial information, it's system of internal controls, and the legal and ethical requirements provided for in section 3.2 of gazette notice No 2690 dated 15 April 2016 were achieved.

Submission by the Accounting Officer

1247) The Accounting Officer submitted that the Ministry has an Audit committee which was appointed in the year 2017 by the then Cabinet Secretary Dr. Fred Matiangi, however, the Audit Committee was not able to start operations due to budgetary constraints.

1248) The Audit Committee was later inaugurated in February, 2019. The Audit Committee has started operations from the financial year 2019/2020.

Committee Observations and findings

1249) The Committee observed and found that:

1) The Accounting Officer failed to give reasons for not availing Minutes of the deliberations of the Audit Committee contrary to Section 197 (1) (k) of the PFM Act, 2012, which is an offence punishable by a fine of up to KSh..10million or imprisonment for up-to five years;
2) The Cabinet Secretary responsible for the department Dr. Fred Matiangi appointed an Audit Committee in (which month) 2017, but the Audit Committee could not commence operations due to budgetary constraints.
3) The Audit Committee was in operation; and
4) The Committee marked the matter as resolved.

KENYA ITALY DEBT FOR DEVELOPMENT PROGRAMME (KIDDP)

REPORT OF THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

363. Stale Cheques

1250) The projects bank reconciliation statement as at 30 June 2018 reflects payments in cash book recorded in bank statement of KSh..19,405,181 which include stale Cheques totaling KSh..4,222,939. In the circumstance, accuracy of bank balance of KSh..63,523,862 reflected in the financial statement could not be confirmed.

1251) Further, as previously reported the bank reconciliation statement as at 30 June 2017 reflect payments in bank statement not yet recorded in the cash book amounting to KSh..259,794, which includes a prior year adjustment balance of KSh..240,529 dating back to 30 June 2013. Although the amount has now been recorded in the cash book, the nature of the prior year adjustment has not been explained or respective analysis availed for audit review.

Submission by the Accounting Officer

1252) The Accounting Officer submitted that all stale Cheques were replaced. The KSh..240,529 was direct credit in respect of retention monies and bank charges.

Committee Observations and findings

1253) The Committee observed and found that:

1) The Accounting Officer had availed the documents to the Auditors for verification and that the stale cheques had been replaced; and
2) The Committee marked the matter as resolved.

364. Unaccounted for Scholarship Funds

1254) Included in other grants and transfers and payments balance of KSh. 8,662,000 for the year ended 30 June 2017 are scholarship grants to various youth polytechnics. Field audit verification in 2017/2018 revealed that some institutions namely Lucy Onono Vacational training Centre, Mfangano Youth Polytechnic, Nagwethe Vocational training and Mkwajuni vocational training Centre could not account for the grants.

1255) In the circumstances, it has not been possible to confirm that an amount of KSh.1,450,250 was expended as per the Kenya Italy Debt for Development Programme Financing Agreement.

Submission by the Accounting Officer

1256) The Accounting Officer submitted that the list of scholarship fund beneficially has been availed to the auditors for review.

Committee Observations and findings

1257) The Committee observed and found that:

1) The Accounting Officer had availed the list of scholarship fund beneficially to the auditors for review and verification. Verification was done and agreed to; and
2) The Committee marked the matter as resolved.

365. Unresolved prior years matters

365.1 Balance Brought Forward

1258) As previously reported, the statement of receipts and payments for the year ended 30 June 2015 reflected a balance KSh..9,522,133 brought forward from the previous year. However, the management failed to explain the source and nature of the balance. Consequently, it was not possible to establish the validity of the balance.

Submission by the Accounting Officer

1259) The Accounting Officer submitted that the KSh.9,522,133 is the amount that was reflected in the statement of receipt and payments for 30 June 2015 as a balance carried forward. Since there was no any transaction that was conducted in the financial year 2013 – 2014, this balance remained as balance brought forward as at 1 July 2014.

The Committee considered this matter in the Report of 2014/2015.

365.2 Variance in the Finance Statement

1260) As reported in the previous years, the accuracy of the financial statement could not be confirmed due to the following anomalies:

1261) The statement of comparative budget and actual amount for the year ended 30 June, 2015 reflected a final budget figure of KSh.118,600,000 under proceeds from domestic and foreign loan. However, an approved budget supporting the balance was not availed for audit verification. Further, the statement reflected actual proceeds from domestic and foreign grants totaling KSh.18,731,449 which differed with the balance of KSh..118,600,000 reflected in the statement of receipt and payment by an unexplained variance of KSh..99,868,551.

1262) In the circumstances, it was not possible to confirm the accuracy and validity of proceeds from the domestic and foreign loans balance of KSh..118,600,000 reflected in the financial statements.

Submission by the Accounting Officer

1263) The Accounting Officer submitted that the Figure of KSh..97,700,000 under proceeds from foreign grants which was actually the loan from Kenya Italy Debt for Development Programme (KIDDP), was gross amount reflected in the Project's budget. This was later adjusted to KSh..118,600,000 as indicated in the receipts and Payment which was final budget. Further the proceeds from domestic and foreign grants of KSh..25,641,449.50 that has since been adjusted to KSh..18,731,449.50 being actual expenditure for the KIDDP Project for 2014/2015. This brought a variance of KSh..99,868,550.50 instead of the previous figure of KSh..92,958,550.50 This variance of KSh..99,868,550.50 comprising of 84% because of the challenges of logistic as a result of devolution of Youth polytechnic leading to delay in tendering for quotations and commencement of construction works.

The Committee considered this matter in the Report of 2014/2015.

365.3 Unconfirmed/ Excluded Expenditure

1264) As reported in the previous years, examination of payment vouchers revealed that expenditure totaling KSh..59,724,550 and KSh..24,050,356 in respect of purchase of workshop tools and construction of workshops respectively under Government counterpart funding were omitted from the financial statements. Further, expenditure of KSh..8,190,400 and KSh..1,288,814 totaling to KSh..9,479,214 reflected in the financial statements were incurred on tools and construction of workshops respectively under the component. However, management did not avail the project status report for audit review. In the circumstances, it was not possible to confirm the propriety of the expenditure of KSh..9,479,214 on tools and construction of workshops.

Submission by the Accounting Officer

1265) The Accounting Officer submitted that the payments on the vouchers amounting to KSh..59,724,550 and KSh..24,050,355.50 in respect of purchase of workshop tools and construction of workshops respectively were not included in the in the project's financial statements.

1266) These two vouchers i.e. KSh..59,724,550 and KSh..24,050,350.50 were omitted from the financial statements as expenditure on workshop tools and construction of workshops both totaling to KSh..83,774,905.50 was purely the normal GOK expenditure as Kenya Italy Debt for Development Programme (KIDDP) Project, does not have a counterpart funding.

<u>The Committee considered this matter in the Report of 2014/2015.</u>

366. Acquisition of non- Financial Assets

366.1 Construction Projects in Vocational Training Centers

1267) Included in the statement of receipts and payments for the year ended 30 June 2018 is acquisition of non- financial assets totaling KSh..31,324,656 paid in respect of construction work in seven (7) youth polytechnics during the year.

1268) Physical verification of the projects revealed that all the projects were incomplete and that the contracts periods had expired and no extensions had been granted. Management has not explained why action has not been taken against the contractors in accordance with clause 27 of section III conditions of contract.

1269) In the circumstances, the propriety of the total payments of KSh..31,324,656 and value for money for stakeholders on the seven projects could not be ascertained for the year ended 30 June 2018.

Submission by the Accounting Officer

1270) The Accounting Officer submitted that all the projects are now complete and handed over to clients. All Certificate have been availed for audit review.

Committee Observations and findings

1271) The Committee observed and found that:

1) The Accounting Officer had availed certificates of the project completion to the auditors for review and verification. Verification was done and agreed to; and
2) The Committee marked the matter as resolved.

367. Going Concern of the Project

1272) The agreement on debt development swap between the Italian Republic and the Government of Kenya of Kenya of 27 October 2004 states that will remain in force until 30 June 2018. Further, amounts not disbursed on eligible projects by then shall be repaid within three months to the Government of the Italian Republic, the project cash book as at 30 June 2018 reflects a balance of KSh..63,525,862 and the constructions projects under Kenya Italy Debt for Development Programme will therefore, depend upon the support of the Italian Government. Consequently, the Kenyans may not get full benefits from the project if the funds are refunded to the donor.

Submission by the Accounting Officer

1273) The Accounting Officer submitted that the Kenya Italy Debt for Development Programme has been extended from 30 June 2018 to 30 June 2021.

Committee Observations and findings

1274) The Committee observed and found that:

1) The Accounting Officer had confirmed the extension of the project the letter of extension which was availed to the auditors for review and verification. Verification was done and agreed to; and
2) The Committee marked the matter as resolved.

368. Unresolved Prior Year Matters- Failure to Prepare and Submit for Audit 2013/2014 Financial Statements

1275) As previously reported, although the project management submitted the 2014/2015, 2015/2016, 2016/2017 and 2017/2018 financial statements to the Auditor General for audit, 2013/2014 financial statements were not prepared and submitted for audit. This is contrary to section 4 (1) of the Public Audit Act 2003 that required preparation of final accounts for every financial year. In the circumstance, the management breached the provisions of the Public Audit Act, 2003.

Submission by the Accounting Officer

1276) The Accounting Officer submitted that prior to 2014, the State Department for Vocational Training was under the defunct Ministry of Youth Affairs and Sports (MOYAS) as the Department of Youth Training (DYT). In Financial Year 2013/2014, the Department of

Vocational (Vocational Training) was in transition between the defunct Ministry of Youth Affairs and Sports, the Ministry of Devolution and planning and the Ministry of Education Science and Technology.

1277) During this period of transition, KIDDP Project records were not transferred to the Ministry of Education, Science and Technology, They remained under Department of Youth Affairs, in the Ministry of Devolution and Planning. Due to the reorganization of Government and the transition process, the financial statements for the year 2013-2014 were not prepared. Further, there were no activities on the project in 2013-2014. The opening and closing bank balances have been availed to the auditors for review.

14.0. STATE DEPARTMENT OF UNIVERSITY EDUCATION

FINANCIAL STATEMENTS FOR VOTE 1065

Amb. Simon Nabukwesi, the Principal Secretary and Accounting Officer for the State Department of University Education (Vote 1065) appeared before the Committee on 16th March 2020 to adduce evidence on the Audited Financial Statements for the State Department of University Education (Vote 1065) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. Mr. Robert A. Samwel	-	Head of account Unit.
2. Mr. Darius M. Owitu	-	Director University Education.
3. Mr. James M.Kiburi	-	Deputy Director University Education.
4. Mr. Jeremia G. Ongare	-	Ag. CEO National Research Fund.

354. Pending Bills

1278) As disclosed in Annex 1 of the financial statements, the State Department for University Education had pending bills totaling KSh.1,311,738,922 which were not settled in 2017/2018 but were carried forward to 2018/2019. Out of KSh.1,311,738,922 bills amounting to KSh.1,025,849,040 relate to Recurrent Vote while the balance of KSh.285,889,882 relate to Development Vote. Had the bills been settled and the expenditure accounted for in 2017/2018, the financial statements for the year ended 30 June 2018 would have reflected a deficit (excess vote) of KSh.1,312,053,352 instead of the deficit of KSh.314,433 now reflected for the year ended 30 June 2018. This is contrary to Section 53(8) of the Public Procurement and Disposals Act 2015 which requires that Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates. 2

Submission from the Accounting Officer

1279) The Accounting Officer submitted that the Department had the budget for the above pending bills, but it did not receive adequate Exchequer to settle them. The pending bills have since been settled, verified and confirmed by the auditors.

Committee Observations and Findings

1280) The Committee observed and found that:

1) The pending bills had since been settled, verified and confirmed by the Auditor General; and
2) The issue was marked as resolved.

Committee Recommendation

1281) The Committee recommended that:

The matter be resolved.

355. Use of Goods and Services

1282) The statement of receipts and payments for the year ended 30 June 2018 reflects use of goods and services figure of KSh.453,314,843 which includes payments totaling KSh.22,533,406 in respect of rent of office space at Utalii House. However, of this amount KSh.7,355,188.80 was for lease of office space occupied by National Commission for Science, Technology and Innovation (NACOSTI). No explanation was given as to why the state department paid rent on behalf of a state body with its own budget allocation.

1283) In the circumstances, it was not possible to confirm the validity and propriety of rent payment totaling to KSh.22,533,406 made for the office spaces.

Submission from the Accounting Officer

1284) The Accounting Officer submitted that the rent was paid as per the lease agreement between the Kenya Tourism Development Corporation and the State Department of University Education. National Council for Science, Technology and Innovation (NACOSTI) being a state corporation under the State Department, its office space was covered in the lease agreement.

1285) The SAGA did not have a budget provision for payment of rent in their approved budget for the financial year 2017/2018 and that is why the Ministry paid the rent. Lease agreement and the SAGA's approved budget have been verified by the auditors.

Committee Observations and Findings

1286) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory; and
2) The issue was marked as resolved.

Committee Recommendation

1287) The Committee recommended that:

The matter be resolved.

356. Unresolved Prior Year Matters

354.1 Wasteful Expenditure

1288) As reported in 2016/2017, the statement of receipts and payments for the year ended 30 June 2017 reflected use of goods and services figure of KSh.740,922,565 which included an amount of KSh.20,790,625 paid to the Principal Secretary National Treasury who in turn paid four (4) firms in respect of reimbursement of demurrage and storage charges under GoK/ADB HEST project. However, no supporting or accompanying invoices on demurrage and storage charges were availed for audit review. In addition, examination of IFMIS payments details revealed that the payments were paid under 'below the line' expenditure whose ledger was also not availed for audit verification.

1289) Further, available information indicated that the above four (4) firms were paid KSh.20,790,626 as reported in the year 2015/2016 in respect of demurrage and storage charges as detailed below. This may amount to double payment of public resources.

Payment Date	Cheque no.	Amount
1-Jul-16	2377	1,432,675.30
1-Jul-16	2379	1,780,798.25
1-Jul-16	2376	2,222,721.40
1-Jul-16	2378	15,354,431.80
		20,790,626.75

1290) In the circumstances, it has not been possible to confirm that expenditure of KSh.20,790,625 paid was a proper charge to public resources.

The Committee discussed the matter in its Report of 2016/2017.

354.2 Transfers to Other Government Units

1291) As reported in 2016/2017, the statement of receipts and payments for the year ended 30 June 2017 reflected transfers to other Government Units figure of KSh.60,911,006,803 which comprises KSh.7,844,854,056 and KSh.53,066,152,748 in respect of development and recurrent grants. The figure of KSh.7,844,854,056 includes development grants of KSh.279,846,149 and KSh.935,078,854 transferred to Kisii and Moi Universities respectively. However, a review of the records maintained by the Ministry revealed that KSh.145,703,038 disbursed to Kisii university in respect of ICT theatre was based on Interim certificates covering the period 16 September 2011 to 2 April 2013. However, no supporting information was made available to ascertain that these bills were pending. In addition, Moi University was paid KSh.33,443,953 in respect of construction of a library annex out of which KSh.14,163,570 and KSh.18,227,227.75 relate to interim certificates dating back to 25 September 2012. A further amount of KSh.76,752,911 was disbursed in respect to the proposed construction of school of public health, a 2,250-students Hostel Block and sewerage system based on interim certificates issued in the period between 8 March 2010 and 25 September 2012. No satisfactory reasons were provided for delay in settling these long outstanding debts. The Ministry did not provide the policy documents or the University Funding Board minutes to ascertain the actual basis for the disbursements.

1292) In the circumstances, it has not been possible to confirm the authenticity of payments totalling KSh.279,846,149 and KSh.935,078,854 made to Kisii University and Moi University respectively for the year ended 30 June 2017.

The Committee discussed the matter in its Report of 2016/2017.

354.3 Unsupported Balance

1293) As previously reported, the statement of assets and liabilities as at 30 June 2017 reflected a balance of KSh.48,129,092 under prior year adjustments which included district suspense figure of KSh.5,259,494 whose nature and supporting analysis was not explained and availed for audit review.

1294) In the circumstance, it was not possible to confirm the accuracy and completeness of prior year adjustment balance of KSh.48,129,092 as at 30 June 2017.

The Committee discussed the matter in its Report of 2016/2017.

Other Matter

357. Budgetary Control and Performance

355.1 Budget Analysis

1295) The State Department for University Education had an approved total budget of KSh.100,825,119,576 against actual expenditure of KSh.90,501,604,905 resulting to an under-absorption of KSh.10,323,514,671 or 10% of the total budget.

355.2 Recurrent Vote

1296) Further, the budget performance analysis for recurrent budget shows that the State Department underutilized the planned budget under use of goods and services and other grants and transfers by 54% and 16% respectively.
Under absorption of the approved budget is an indication of activities not been implemented by the State Department which implies non delivery of goods and services to the Kenyan citizens for the year ended 30 June 2018.

355.3 Development Vote

1297) In addition, the State Department had a total development budget of KSh.4,323,815,292 against actual expenditure of KSh.3,613,324,606 for the year ended 30 June 2018 resulting to under absorption of KSh.710,490,686.

1298) The under absorption of the approved budget is an indication of activities planned but not implemented by the State Department which implies non delivery of goods and services to the Kenyan citizens for the year 30 June 2018.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

356. Unresolved Prior Year Matters

356.1 Procurement of Contracted Professional Services

1299) The statement of receipts and payments for the year ended 30 June 2017 reflected use of goods and services figure of KSh.740,922,565. However, examination of the payment vouchers and supporting documents revealed the following anomalies:

356.1.1 Consultancy Services on Research Funding Guidelines

1300) On 14 March 2017 the state department signed a contract for consultancy services with University of Nairobi Enterprises and Services Ltd to develop research funding guidelines at a contract sum of KSh.9,890,000. However, procurement documents and records showing how the consultants were procured, evaluated and awarded the contract were not availed for audit review. It was therefore not possible to confirm whether the contract was procured competitively in compliance with the Public Procurement and Disposal Act, 2015 and the relevant regulations. The state department was therefore in breach of the law.

356.1.2 Consultancy Services on Capacity Building Strategy

1301) On 1 September 2016 the Ministry awarded the tender to develop a regional human resource capacity building strategy for the implementation of the Northern Corridor Integration Projects Jomo Kenyatta University of Science and Technology (JKUAT) at a contract sum of KSh.130,900.310 with the completion date of 21 January 2017. The contract was done through single sourcing. However, no supporting procurement documents showing how JKUAT was identified and contract sum determined was availed for audit review. In the circumstances, it has not been possible to confirm whether the contract was procured competitively in compliance with the Public Procurement and Asset Disposal Act, 2015 and relevant regulations.

356.1.3 Expenditure on Leased Offices

1302) The statement of receipts and payments for the year 30 June 2017 reflected use of goods and services figure of KSh.740,922,565 which includes payments totalling KSh.45,769,339 in respect of rentals of produced assets as disclosed in note 5 to the financial statements. The figure of KSh.45,769,339 also included KSh.44,733,296.80 being of lease for office space and parking whose valid lease agreements and minutes of the Tender Committee approving the lease were not availed for audit verification.

1303) In the circumstances, it has not been possible to confirm that the rent paid of KSh.44,733,296.80 was in line with the existing agreement and consistent with market rates, and that the contract was valid.

356.2 Failure to Surrender Temporary Imprests

1304) The statement of assets and liabilities as at 30 June 2017 reflected accounts receivables balance of KSh.230,008 which includes government imprest of KSh.32,418 and which had not been surrendered as at 30 June 2017. This is contrary to the requirements of Section 71(2) of the Public Finance Management Act, 2012, and Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which require that imprest should be surrendered or accounted for within 7 working days after returning to duty station. In the circumstance, the state department was in breach of the law.

<u>The Committee discussed the matters in its Report of 2016/2017.</u>

REPORT ON INTERNAL CONTROLS EFFECTIVENESS, GOVERNANCE AND RISK MANAGEMENT SYSTEMS

Basis for Conclusion

357. Audit Committee

1305) As required by Section 73(5) of the Public Finance Management Act (2012) the State Department did have an audit Committee in place. However, the Minutes of the deliberations of the Committee were not availed for audit review.

The Committee discussed the matter in its Report of 2016/2017.

Minutes of the deliberations of the Committee were availed.

SUPPORT TO ENHANCEMENT OF QUALITY AND RELEVANCE IN HIGHER EDUCATION, SCIENCE AND TECHNOLOGY PROJECT ID No. P-KE-IAD-001-LOAN NO. 2100150027993

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

358. Purchase of Goods and Services

1306) As previously reported, the Ministry entered into supply contracts with various suppliers for supply of engineering equipment to selected Public Universities. According to the contracts, the suppliers were to be paid advance payment of 20% upon signing of contracts and submission of a bank guarantee of an equivalent amount. A further 60% of the contract sum was payable upon shipment of the equipment and submission of shipping documents and a final payment of 20% was payable upon receipt and acceptance of the equipment. As at 30 June 2018 the cumulative amount on acquisition of non-financial assets was KSh.3,008,786,166. However, the following omissions were noted:

359.1 Equipment not Delivered

1307) As previously reported, audit verification revealed that equipment worth KSh.47,244,172 were not delivered to three universities despite being paid for. It is not clear when and if the equipment will be delivered in order for stakeholders to get value for public resources and that the propriety of KSh.47,244,172 paid for goods not delivered could not be confirmed.

359.2 Equipment Installation

1308) As previously reported, equipment worth KSh.222,464,621 supplied to four (4) universities namely Masinde Muliro University, Meru University, South Eastern Kenya University, and Technical University of Mombasa on 22 March 2015, 11 November 2016, 30 November 2016 and 18 November 2015 respectively had not been installed as at the time of our audit on 24 October 2017. Information obtained from the University management showed that they had no specifically designed and fully insulated space/room where the equipment could be installed, while some of the equipment required necessary accessories to be installed. Although the contracts were signed way back in 2013, no satisfactory explanations were provided as to why the required space had not been identified or constructed in preparation for supply of the equipment and why the delivery of the necessary accessories had delayed.

1309) It is therefore not clear if and when the equipment will be installed in order for the stakeholders to get value for money from public resources worth KSh.222,464,621.00.

359.3 Equipment not as per User Specification

1310) As previously reported, equipment delivered to Meru University, South Eastern Kenya University and Technical University of Kenya valued at KSh.215,035,132 were found not to meet user specification, hence were rejected by the respective inspection and acceptance committee. However, these equipment had not been replaced as at the date of the audit on 24 October 2017. In some cases, the equipment could not be used as they lacked essential accessories to operate.

1311) In the circumstances, the validity of expenditure totalling KSh.215,035,132 on the equipment could not be ascertain.

The Committee discussed the matters in its Report of 2016/2017 and theye were resolved.

1312) The Committee observed that Paragraph 361 and 362 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

Paragraphs 363 to 369

1313) The Committee observed that the paragraphs relates to the state department of Vocational and Technical Training.

Paragraphs 370 to 376

1314) The Committee observed that the paragraphs relates to the state department of early learning and Basic Education.

Paragraphs 377 to 381

1315) The Committee observed that the paragraphs relates to Jaramogi Oginga Odinga University of Science and Technology and the matter will be handled by the Public Investment Committee.

Paragraphs 382 to 388

1316) The Committee observed that the paragraphs relates to Maseno University and the matter will be handled by the Public Investment Committee.

15.0. MINISTRY OF HEALTH

FINANCIAL STATEMENTS FOR VOTE 1081

Ms. Susan Mochache, the Principal Secretary and Accounting Officer for the Ministry of Health (Vote 1081) appeared before the Committee on 17th February 2020 and 8th July 2020 to adduce evidence on the Audited Financial Statements for the Ministry of Health (Vote 1081) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). The following officials accompanied her:

1. Mr. Samson M. Ongalo - Deputy Accountant General
2. Mr. Joseph Muraga - Chief Finance Officer
3. Ms. Rebecca Mutua - Assistant Accountant General
4. Mr. Silas Kamuren - Personal Assistant
5. Dr. K. M. Thiga - SDDMS
6. Mr. Moses K. Ranji - PA
7. Mr. Joel K. Sego - PA
8. Mr. Gideon Onsongo - SAS
9. Mr. Samwel Nthenge - Chief Economist
10. Mr. Imam Abdi - SDS/A

Basis for Qualified Opinion

389. Inaccuracies in the Financial Statements

1317) The statement of cash flows and note 15B to the financial statements reflects adjustments during the year of Ksh.77,047,705 and whose analysis was not availed for audit verification. In the circumstances, the accuracy of the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1318) The Accounting Officer admitted that the statement of assets and liabilities and the statement of cash flows reflects prior year adjustment of Ksh.s.77,047, 705. The figure comprised adjustment of prior year imprests amounting to Ksh.s.11,329,357 surrendered during the year under review but accounted for in the previous year's financial statements. The figure also included Development Bank Account Balance of Ksh.1,364,997 and Recurrent Bank balance of Ksh.s.64,353,351 captured as recoveries by National Treasury from MOH after the closure of the financial year 2016/17. However, the actual recovery by National Treasury on 23rd August 2017 was Ksh.s75,835.90 and 49,316,357.10 under Development Account and Recurrent Account. The difference of Ksh.s.1,289,161.35 and Ksh.15,036,993.90 respectively has been restated and the financial Statement revised for 2017/18.

Committee Observations and Findings

1319) The Committee observed and found that:

1) The supporting documents showing the accuracy of the financial statements for the year are yet to be verified by the Office of the Auditor General; and
2) The query remained unresolved.

Committee Recommendation

1320) The Committee recommended that:

1) **Within three (3) months of tabling and adoption of this report, the Accounting Officer should ensure that the supporting documents for the reconciliation of the financial statements are duly submitted to the Auditor-General for audit and reporting in the subsequent audit cycle; and**
2) **Cabinet Secretary for the National Treasury & Planning should within three (3) months of tabling and adoption of this report, issue a written reprimand to the Accounting Officer for failure to ensure that supporting documents are submitted to the Auditor-General in time . This contravened the provisions of Section 9 (1) (e) of the Public Audit Act, 2015. Submit a copy of the reprimand letter to the National Assembly.**

1321) The Committee observed that Paragraph 390 was considered by the Committee in 2016/2017 and appropriate recommendation made therein.

391. Cash and cash equivalent

1322) The statement of assets and liabilities as at 30 June 2018 reflects bank balance of Ksh.52,707,139. Scrutiny of the cashbooks indicated that the closing figure for the development cashbook as at 30 June 2017 was Ksh.1,364,997. In addition, out of the closing balance of Ksh.1,364,997 available for recall by the Central Bank, only Ksh.75,836 was recalled leaving a balance of Ksh.1,289,161 un-accounted for in the cashbook. Further, review of the recurrent account reconciliation statement reflects receipts in bank statement not in cashbook of Ksh.95,345 and receipts in cashbook not in bank statement of Ksh.6,066,022 whose clearance status as at 31 January 2019 was not provided for audit verification. Consequently, the accuracy and validity of bank balance of Ksh.52,707,139 in the statement of financial assets and liabilities as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1323) The Accounting Officer submitted that it was true that the statement of assets and liabilities as at 30 June 2018 reflects a bank balance of Ksh.52,707,139. The unrecovered balance of Ksh.s.1,289,161.35 by the National Treasury is included in the Bank balance as at 30th June, 2018 which have since been adjusted accordingly in the restated statement of assets and liabilities as at 30th June, 2018. Further, the outstanding items for receipts in cashbook not in bank statement totaling Ksh.6,066,022 reflected in Bank reconciliation as at 30th June, 2018 were cleared in July, 2018 and provided to external auditors for review as evidenced in Bank reconciliation statement extract for July, 2018 which was attached for perusal by the Committee.

Committee Observations and Findings

1324) The Committee observed and found that:

1) The Ministry accounted for the balance of Ksh.s.1,289,161.35 and credited the amount in the Ministry's cashbook and availed the cashbook extract to confirm the recording of Ksh.s.95,345;
2) The reconciliation was belatedly been provided to the Auditor General for review;

and
3) The Accounting Officer provided a satisfactory explanation and therefore the matter is resolved.

392. Accounts Receivables-Outstanding Imprest and Advances

1325) The statement of financial assets and liabilities as at 30 June 2018 reflects outstanding imprest and advances totaling Ksh.28,693,994. Included in the imprest 170 balance Ksh.28,388,120 is an amount of Ksh.10,945,734 which ought to have been accounted for on or before 30 June 2018 but was still outstanding as at 31 January 2019. In the circumstance, the Ministry is in breach of the law and recoverability of the accounts receivable balance of Ksh.28,693,994 as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

1326) The Accounting Officer submitted that it was true that the statement of assets and liabilities reflects an Accounts Receivables- outstanding Imprests and Clearance accounts of Ksh.s.28,693,994. It was further true that included in the imprest balance is an amount of Ksh.s.10,945,734 which ought to have been accounted for on or before 30 June 2018 but which was still outstanding as at January, 2019.

1327) The Accounting Officer reported that the Ministry has since made efforts to recover Ksh.5,805,630 to date in addition to the recovery instructions written to Human Resource to recover the outstanding balance of Ksh.5,140,104 as per recovery sheets which were attached for perusal by the Committee.

Committee Observations and Findings

1328) The Committee observed and found that:
1) The Ministry had not fully recovered the outstanding imprest amount of Ksh.s.5,140,104; and
2) The matter remained unresolved.

Committee Recommendation

1329) The Committee recommended that:
1) **The Accounting Officer should within three (3) months of tabling and adoption of this report, submit to the Auditor-General progress report on the recovery of the outstanding balance of Ksh.5,140,104;**
2) **The Cabinet Secretary for the National Treasury & Planning, should within three (3) months of tabling and adoption of this report, issue a written reprimand to the Accounting Officer for failure to ensure that the outstanding imprests due were surrendered in time. This was in contravention of the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015. Submit a copy of the reprimand letter to the National Assembly.**

393. Accounts Payables-Deposits

1330) The statement of financial assets and liabilities as at 30 June 2018 reflects accounts payable balance of Ksh.52,085,926. Included in this balance is an amount of Ksh.3,141,159 made up of fines and surcharges, salary recoveries and imprest recoveries from the payroll, which were wrongly classified as payables. In the circumstances, it the accuracy of accounts payables balance of Ksh.52,085,926 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1331) The Accounting Officer submitted that it was true that the schedules provided in the financial statements reflected an amount of Ksh.s.3,141,159.00 made up of fines and surcharges, salary recoveries and imprest recoveries from payroll .It is further true that the amount was wrongly classified as a payable, however we have transferred to exchequer and adjusted the financial statements accordingly with concurrence of the office of the Auditor General.

Committee Observations and Findings

1332) The Committee observed and found that:

1) The Ministry eventually prepared a payment voucher for payment to National Treasury and effected the payment on 21st February 2020; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

394. Compensation of Employees

1333) The statement of receipts and payments for the year ended 30 June 2018 reflects compensation of employee's amount of Ksh.6,793,884,157. Included in this figure was an expenditure amounting to Ksh.4,246,449 whose payment vouchers and other related supporting documents were not availed for audit review. In the circumstance, the propriety of the expenditure of Ksh.4,246,449 could not be confirmed for the year ended 30 June 2018.

Submission by the Accounting Officer

1334) The Accounting Officer submitted that true that the payment vouchers were not availed for verification during the time of audit. We have however since obtained the documents and availed to external auditors for audit review.

Committee Observations and Findings

1335) The Committee observed and found that:

1) The Ministry belatedly made full compensation of employees and availed payment vouchers for audit verification; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

395. Use of goods and services

395.1 Specialized materials and services

1336) The statement of receipts and payments for the year ended 30 June 2018 under note 7 includes expenditure on specialized materials and services of Ksh.979,340,730 out of which payment vouchers and other related supporting documents amounting to Ksh.46,137,719 were not availed for audit review. Consequently, it was not possible to confirm the regularity of expenditure of Ksh.46,137,719 for the year ended 30 June 2018.

Submission by the Accounting Officer

1337) The Accounting Officer submitted that true that the payment vouchers were not availed for verification during the time of audit. We have however since obtained the documents and availed to external auditors for audit review.

Committee Observations and Findings

1338) The Committee observed and found that:

1) The Ministry eventually provided the payment vouchers for audit review and verification; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

395.2 Rental of produced assets

1339) The statement of receipts and payments for the year ended 30 June 2018 under note 7 includes expenditure on rental of produced assets of Ksh.5,200,995,733 out of which payment vouchers and other related supporting documents amounting to Ksh.2,149,755 were not availed for audit review. Consequently, the propriety of expenditure totaling Ksh.2,149,755 could not be confirmed for the year ended 30 June 2018.

Submission by the Accounting Officer

1340) The Accounting Officer submitted that true that the payment vouchers were not availed for verification during the time of audit. We have however since obtained the documents and availed to external auditors for audit review.

Committee Observations and Findings

1341) The Committee observed and found that:

1) The Ministry belatedly provided the payment vouchers for audit review and verification; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

396. Transfer to other Government Units

1342) Note 8 to the financial statements reflects expenditure on transfer to other government units of Ksh.36,004,834,419 out of which payment vouchers and other related supporting records amounting to Ksh.9,994,101 were not availed for audit review. In addition, included in other transfers figure of Ksh.63,911,988 is an amount of Ksh.4,855,887 being refund of ineligible expenditure to Global Fund National Tuberculosis Lung Disease (NTLD) project as a result of imprest issued for activities outside the project's work plan in 2007. No reason was provided for non-recovery of this long outstanding amount from the officers concerned. Consequently, the propriety of expenditure totalling Ksh.14,849,988 could not be confirmed for the year ended 30 June 2018.

Submission by the Accounting Officer

1343) The Accounting Officer submitted that true that the financial statements reflects expenditure on transfer to other government units of Ksh.s.36,004,834,419 out of which payment vouchers and other related supporting records amounting to Ksh.s.9,994,101 were not availed for audit review. The vouchers and other supporting records amounting to Ksh.s.9,994,101 have since been provided for audit verification.

1344) The Accounting Officer admitted that it was also true that included in the figure for other transfers totaling to Ksh.s.63,911,988.00 is Ksh.s.4,855,887.10 being imprest issued for activities outside the National Tuberculosis Lung Disease (NTLD) project's work plan in 2007. The Ministry refunded the Project amount in question from the GOK funds under item 2640401-Non-Profit Organization (relevant item) to enable the Ministry unlock future donor funding for the programme.

1345) Meanwhile, the Ministry is pursuing the officers through National Tuberculosis Lung Disease programme to recover the long outstanding imprests being ineligible expenditures refunded to donors.

Committee Observations and Findings

1346) The Committee observed and found that the ministry has not recovered the long outstanding imprests of Ksh.s.4,855,887.10 and therefore the matter remained unresolved.

Committee Recommendation

1347) The Committee recommended that:

1) **The Accounting Officer should within three (3) months of tabling and adoption of this report, submit to the Auditor-General progress report on the recovery of the outstanding balance of Ksh.5,140,104; and**
2) **The Cabinet Secretary for the National Treasury & Planning, should within three (3) months of tabling and adoption of this report, issue a written reprimand to the Accounting Officer for failure to ensure that the outstanding imprests due were surrendered in time. This was in contravention of the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015. Submit a copy of the reprimand letter to the National Assembly.**

397. Other grants and transfers

397.1 Membership dues and subscriptions

1348) Note 9 to the financial statements reflects membership dues and subscriptions to international organizations of Ksh.51,881,817 out of which payment vouchers and other related supporting records amounting to Ksh.2,206,076 were not availed for audit review. Consequently, the propriety of expenditure totaling Ksh.2,206,076 included in membership dues and subscriptions to international organizations could not be confirmed for the year ended 30 June 2018.

Submission by the Accounting Officer

1349) The Accounting Officer submitted that true that the payment vouchers and other supporting records amounting to Ksh.2,206,076 were not availed for verification during the time of audit. We have since obtained the documents and available for audit review.

Committee Observations and Findings

1350) The Committee observed and found that:

1) The Ministry belatedly provided the payment vouchers for audit review and

verification; and

2) The Committee marked the matter as resolved.

397.2 Emergence Relief and Refugee Assistance

1351) Note 9 to the financial statements include expenditure on emergency relief and refugee assistance of Ksh.364,502,952 out of which payment vouchers and other related supporting documents amounting to Ksh.46,067,114 were not availed for audit review. In addition, expenditure totalling Ksh.14,021,158 was wrongly classified under this item as the same ought to have been classified under use of goods and services.

1352) Consequently, the propriety of expenditure totalling Ksh.60,088,272 charged to emergency relief and refugees assistance could not be confirmed for the year ended 30 June 2018.

Submission by the Accounting Officer

1353) The Accounting Officer submitted that true that the payment vouchers amounting to Ksh.46,067,114 were not availed for verification during the time of audit. We are glad to report that we have since obtained the documents and available them for audit review.

1354) The funding for the activities related to emergency and disaster management are provided under one item-2640201 - Emergence Relief and Refugee Assistance, therefore Ksh.14,021,158 relate to procurement for goods and services incurred in the course of undertaking activities under the sub programme and therefore are not misclassified in anyway.

Committee Observations and Findings

1355) The Committee observed and found that:

1) The Committee observed that the Ministry eventually provided the payment vouchers for audit review and verification; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

398. Acquisition of assets

1356) The statement of receipts and payments for the year ended 30 June 2018 includes expenditure on acquisition of assets of Ksh.2,392,695,718 out of which payment vouchers and other related supporting documents amounting to Ksh.82,592,762 were not availed for audit review. In addition, the Ministry incurred expenditure amounting to Ksh.5,703,714 made up of stationery items-Ksh.611,258, printing and supply of promotional materials-Ksh.3,394,500, household goods-Ksh.111,856 and surgical gloves and other specialized materials-Ksh.1,586,100 which were wrongly charged to acquisition of assets instead of use of goods and services. No explanations or reasons were availed for the misclassification. Consequently, it has not been possible to ascertain the propriety of Ksh.88,296,476 included in acquisition of assets for the year ended 30 June 2018.

Submission by the Accounting Officer

1357) The Accounting Officer submitted that true that payment vouchers and other related supporting records amounting to Ksh.82,592,762 were not availed for audit review, we have since availed the records for audit review. It was further true that payments amounting to Ksh.5,703,714 were charged on the item of Acquisition of Assets instead of relevant items.

Description	**Amount**	**Item wrongly charged**	**Correct item**	**Action taken**
Stationery items	Ksh. 611,258	**3111002**	**2211101**	**Expenditure transferred to the correct item vide journal.**
Supply of promotional materials	Ksh.3,394,500	**3111299**	**NA**	**Budget for cancer related activities were availed under the item 3111299.**
Household goods	Ksh. 111,856	**3110901**	**2211101**	**Expenditure transferred to the correct item vide journal.**
Surgical gloves and other specialized material	Ksh.1,586,100	**3111101**	**2211001 2211002 2211008**	**Expenditure transferred to the correct item vide journal.**

Committee Observations and Findings

1358) The Committee observed and found that:

1) The Ministry eventually provided the payment vouchers for audit review and verification; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

399. Pending Bills

1359) As disclosed at note 18.1, pending bills totaling to Ksh.4,434,472,786 not settled during the year 2017/2018 but instead carried forward to 2018/2019. Had the bills been paid and the expenditure charged to the account for 2017/2018, the statement of receipts and payments for the year would have reflected a deficit of Ksh.4,403,334,857 instead of a surplus of Ksh.31,137,929.

Submission by the Accounting Officer

1360) The Accounting Officer submitted that the total budget for the Ministry in the financial year 2017/18 amounted to Ksh.60,001,003,134 out which the Ministry incurred an expenditure of Ksh.52,452,371,243 recording an under-expenditure of Ksh.7,548,631,891. Therefore had the Ministry received full exchequer requested, the Pending Bills would have been cleared without recording a deficit as alluded.

Committee Observations and Findings

1361) The Committee observed and found that the Accounting Officer submitted that the ministry had made requests to the National Treasury for payments to clear the Pending Bills and were waiting the response to clear the same and therefore the issue remains unresolved.

Committee Recommendation

1362) The Committee recommended that:

The Accounting Officer should within three (3) months upon adoption of this report by the House, ensure that all the pending bills are duly verified and arrangement made with the National Treasury for the release of funds for settlement of pending bills totaling to Ksh.4,434,472,786 not settled during the year 2017/2018.

Other Matter

400. Budgetary Performances

1363) During the year under review, the Ministry's actual receipts amounted to Ksh.52,483,141,437 against budgeted receipts of Ksh.78,391,624,264 resulting in an shortfall of Ksh.25,908,482,827 which translate to 67percent efficiency. Further, the Ministry's actual expenditure for the year amounted to Ksh.52,452,003,508 against budgeted expenditure of Ksh.78,391,624,264 resulting in an overall under absorption of Ksh.25,939,620,757 or 67percent efficiency.

Submission by the Accounting Officer

1364) **(a). Unrealized Exchequer funding**

Vote	Budget	Actual	Variance	Net Vote
Recurrent	34,581,299,770	28,666,361,858	5,914,937,912	83percent
Development	25,419,703,364	22,703,646,880	2,716,056,484	89percent
TOTAL	60,001,003,134	51,370,008,737.50	8,630,994,396	86percent

(b). Unrealized Appropriation in Aid

Vote	Budget	Actual	Variance	Net Vote
Recurrent	14,429,046,480	2,708,832	14,426,337,648	0.02percent
Development	3,961,574,640	1,098,970,428	2,862,604,212	27.74percent
TOTAL	18,390,621,120	1,101,679,260	17,288,941,860	5.99percent

1365) The Accounting Officer submitted that under expenditure and the under collection of Ksh.25,939,620,757 and Ksh.25,908,482,827 respectively was as a result of the exchequer underfunding of Ksh.8,630,994,396 from National Treasury and unrealized Appropriation in Aid of Ksh.17,288,941,860 from the Semi-Autonomous Government Agencies due to non-capture of A-I-A in IFMIS. The State Department has addressed the issue of A-I-A returns from SAGAS by requesting them quarterly to submit their A-I-A collections and supporting documents. Further, expenditure returns relating to Appropriation In Aid (support in kind) of Ksh.2,862,604,212 for donor funded projects for instance UNICEF-Gavi vaccines support, BADEA burns and emergency project among others were not then provided for capturing of A-I-A expenditure returns in the financial statements**.** The issue has been addressed with the donor partners and the absorption has greatly improved in 2018/19 financial year.

Committee Observation and Findings

1366) The Committee observed and found that:

1) The State Department did not receive exchequer funding of Ksh.8,630,994,396;
2) The State Department did not realize appropriation in Aid of Ksh.17,288,941,860 from the Semi-Autonomous Government Agencies due to non-capture of A-I-A in IFMIS;
3) The issue has been addressed with the donor partners and the absorption has greatly improved in 2018/19 financial year; and
4) The Accounting Officer satisfactorily addressed the issues and therefore the matter is resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC MONEY

Basis for Conclusion

401. Computed Tomography (CT) Scanners

1367) The statement of receipts and payments for the year ended 30 June 2018 includes expenditure on acquisition of assets of Ksh.2,392,695,718. Included in this amount is Ksh.1,740,000,000 under specialized plant equipment and machinery paid for CT Scanners. This was 20percent of the contract value paid as a condition precedent for Government of Kenya to obtain a loan of Ksh.7,000,000,000 from Government of China to finance the purchase of the CT scanners. The scanners were procured through an International Company. However, no procurement documents for the Company had been provided at the time of conclusion of the audit review. Information available indicate that the Company was proposed by the Government of the Peoples Republic of China as a leading manufacturer of CT scans.

1368) Consequently, it was not possible to ascertain whether due diligence and fidelity to the Public Procurement and Assets Disposal Act, 2015 was observed and in particular Section 85 which require tenders to be evaluated by the evaluation committee of the procuring entity for the purpose of making recommendations to the accounting officer through the head of procurement to inform the decision of the award of the contract to the successful tenderers.

Submission by the Accounting Officer

1369) The Accounting Officer submitted that the procurement was effected through a technical commercial contract entered and signed between the Ministry of Health of the Republic of Kenya and Neusoft Medical Systems Company Ltd of China on 21st August 2014 under Government to Government financing arrangement executed by the National Treasury as provided by the clause 5 contained therein. The Accounting Officer further admitted that due diligence report had not been availed at the time of audit for verification. The Ministry confirms that due diligence and fidelity to the Public Procurement and Disposal Act of 2015 was observed and in particular section 85 which require tenders to be evaluated by the evaluation committee of the procuring entity for the purpose of making recommendations to the accounting officer through the head of procurement to inform the decision of the award of the contract to the successful tenderers.

Committee Observations and Findings

1370) The Committee observed and found that:

1) The Government-to-Government procurement was not among the methods of procurement provided for under Section 92 of Public Procurement and Assets Disposal Act, 2015;
2) The GOK delegation was apparently hosted by Neusoft Medical Systems Co Ltd, a Company the delegation had gone to do due diligence on;
3) It was confirmed that the Principal Secretary at the material time, Mr. Julius Korir, was in the delegation that travelled to China although he was not part of the Due Diligence Committee;
4) It was not clear who was the head of the delegation between Dr. Izaq Okoth Odongo, who was the most Senior Officer and Mr. Morang'a Morekwa, who witnessed the signing of the contract;
5) It was not clear which company was visited by the Due Diligence Committee as the report referred to Neusoft Medical System Co Ltd, Pensoft Medical System Co. Ltd and Natursoft Medical Systems Co. Ltd alternately and variously; and
6) The query remained unresolved.

Committee Recommendations

1371) The Committee recommended that:

1) **The EACC should within three (3) months of tabling and adoption of this report, initiate forensic investigation into the whole procurement process of the Computed Tomography (CT) Scanners with a view to establish whether there was due diligence and fidelity to the Constitution, the Public Procurement and Disposal Act of 2015 and any other relevant laws.**
2) **The Directorate of Criminal Investigation should, within three months upon adoption of this report, initiate an investigation into the roles played by Mr. Julius Korir and other ministry of health officers in the procurement of the CT scans with a view to establish possible criminal culpability. The DCI should make appropriate recommendations to the Director of Public Prosecution for his further action, without undue delay.**

Committee Observations and Findings

1372) The Committee observed and found that

Paragraph 402 to 405 were considered by the Committee in its report for the FY 2016/2017 and the a recommendation made therein.

406. Lack of well-documented Enterprise Wide Risk Management Process and IT

Strategic Committee

1373) During the year under review, the Ministry did not have a well-documented enterprise wide risk management process and policies in place to effectively guide the enterprises risk management processes at large. This is contrary to the Public Finance Management regulations 2015, Section 165 which states that the Accounting Officer shall ensure that the national government entity develops— (a) risk management strategies, which include fraud prevention mechanism; and (b) a system of risk management and internal control that builds robust business operations. Treasury circular No. 03/2009; Ref: MOF/IAG/033(75) requires that government entities/agencies should among other things develop and establish Risk Management Policy and Framework (IRMPF) so as to guide its strategic and operational activities. The Ministry also did not have an IT strategic committee, an IT strategic plan that supports business requirements and ensures that IT spending remains within the approved IT strategic plan, formally approved IT security policy to ensure data confidentiality, integrity and availability, formal, documented and tested emergency procedures, copies of the IT continuity plan and disaster recovery plan kept off-site and no backups stored in a secure off site location. The above observations touching on weaknesses on IT General Environment control were noted.

Submission by the Accounting Officer

1374) The Accounting Officer reported that the Ministry instituted IT Strategic Committee in 2019. The Committee will plan and put in place a Strategic Plan that supports business requirements and an IT Security Policy by April 2020. The State Department appreciates the issues raised in the draft report on the reports and financial statement for the year ended 2017/18 and requests that the recommendations emanating from examinations of the same will be taken into account in compliance to all the provisions of the Public Finance Management Act, 2012.

Committee Observations and Findings

1375) The Committee observed and found that:

1) The IT Strategic Committee has since been established to work on strategic business requirements plan and report back to the National Assembly; and
2) The issue remains unresolved.

Committee Recommendations

1376) The Committee recommended that:

The Accounting Officer should, within three (3) of tabling and adoption of this report, report the status of progress of the Ministry IT Strategic Committee to the National Assembly.

DONOR FUNDED PROJECTS

GLOBAL FUND – EXPANDING HIV PREVENTION, CARE AND TREATMENT SERVICES TO REACH UNIVERSAL ACCESS (80percent COVERAGE) TO REDUCE BOTH INCIDENCE AND ASSOCIATED IMPACT PROGRAM (GRANT NO. KEN-H-MOF / KEN-H-TNT NO. 853

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

407. Account Receivables – Imprests and Advances

1377) The statement of financial assets reflects outstanding imprest and advances balance of Ksh.11,250,790 as at 30 June 2018 which ought to have been accounted for on or before 30 June 2018. In the circumstances, it has not been possible to confirm the validity and recoverability of the imprest and advances balance of Ksh.11,250,790 as at 30 June 2018.

Submission by the Accounting Officer

1378) The Accounting Officer admitted that at the end of the financial 2017/18 there were outstanding imprests of Ksh.11,250,790. This arose due to pressure to clear outstanding commitments as per the grant agreement as the grant was ending. However, all outstanding imprests have been accounted for in by way of expenditures and any balance banked as per the schedule, copies of surrender vouchers and banking slips leaving a balance of Ksh.289,500, which the project is following up with a view of clearing.

Committee Observations and Findings

1379) The Committee observed and found that:

1) The supporting documents are yet to be verified by the Office of the Auditor General; and
2) The issue remained unresolved.

Committee Recommendation

1380) The Committee recommended that:

The Accounting Officer should within three (3) months of tabling and adoption of this report, liaise with the National Treasury and the project financiers to clear the outstanding balance of Ksh.289,500.

408. Bank Balances

1381) The statement of financial assets reflects bank balance of Ksh.61,986,759 as at 30 June 2018. However, the bank reconciliation statement for a local bank account reflects receipts in cashbook not captured in the bank totalling to Ksh.1,397,060 which are reflected as outstanding as at 30 June 2018. However, a review of the bank statements showed the cheques totalling Ksh.1,397,060 were indeed cleared in May 2018.

1382) In the circumstances, the accuracy of cashbook balance of Ksh.61,986,759 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1383) The Accounting Officer submitted that it was true that at the end of the financial year ending 30th June 2018, there were outstanding bank reconciliation items totaling KES 1, 397,060, which was inter Bank account borrowing between the Grant No. 853 and Grant No. GA 1547. This was accurately captured in the corresponding bank reconciliations as reconciling items which were cleared later.

Committee Observations and Findings

1384) The Committee observed and found that:

1) The Ministry eventually amended and cleared the outstanding bank reconciliation items totaling Ksh.s.1,397,060 and availed the statement for audit review and verification; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

409. Statement of Cash flow

1385) The statement of cash flow for the year ended 30 June 2018 reflects cash and cash equivalent at the beginning of the year balance of Ksh.197, 319,875 which differ with the audited cash and cash equivalent at end of year 30 June 2017 balance of Ksh.162,505,713 resulting in unexplained difference of Ksh.34 814,162. In addition, the statement reflects change in imprest and advances of Ksh.11,250,790 which differ with the movement of imprest and advances in the statement of financial assets of Ksh.23,563,372 resulting again in unexplained difference of Ksh.12,312,582. Further, the statement included an unexplained adjustment during the year of Ksh.535,875. 177

1386) In the circumstances, the accuracy and completeness of the statement of cash flow for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

1387) The Accounting Officer submitted that it was true that there were misstatements errors brought forwarded from the previous financial statements which were not corrected at the end of 2016/17 and 2017/18 financial years. However, this is being revised to re state the correct balance for the previous financial statements.

Committee Observations and Findings

1388) The Committee observed and found that:

1) The Ministry eventually presented the amended financial statement and availed it for audit review and verification; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

410. Imprest and Advances

1389) As disclosed at note 8.11 to the financial statements, one officer was issued with an additional imprest of Ksh.573,200 before surrender of an earlier imprest of Ksh.658,440 contrary to Section 93(4) and (5) of the Public Finance Management Act, 2015.

Submission by the Accounting Officer

1390) The Accounting Officer submitted that it was true that at the end of the financial on 30th June 2018, there was two outstanding imprest held by one officer. This was an oversight as there was pressure to clear any program commitments as per the Grant agreement and it was coming to an end and proper documentation was of utter most importance to close the books at the end of the grant period. However, I would like to state that the officer, Mr Jesse Sihai, did document for all the monies advanced and all documents have been vouched and submitted for inspection.

Committee Observations and Findings

1391) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to imprests and advances to an officer was satisfactory;
2) The imprest had been accounted for/surrendered; and
3) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

411. Inability to Utilize the Grant within the project period.

1392) The Global Fund - Expanding HIV Prevention, Care and Treatment Services to Reach Universal Access (80percent Coverage) to Reduce Both Incidence and Associated Impact Program was intended to reduce HIV AIDS new infections and related mortality rate by provision of HIV prevention programs, provision of care and treatment of those living with HIV. As disclosed under the funding summary section of the annual report and financial statements, the project was for a duration of two (2) years from 1 October 2015 to 31 December 2017 with total available funding of Ksh.3,801,642,328 (USD 43,200,481). A review of the annual report and financial statements for the year ended 30 June 2018, however reflect undrawn balances of Ksh.1,016,799,046 (USD 9,825,170) and cash and cash equivalent balance of Ksh.61,986,759 as at 30 June 2018 which is likely to be refunded to the donor as no project extension is in place. Although management has indicated that disbursements of funds to counties remained a challenge, there was need to expand the area of coverage so as to utilize the grant and maximize the benefits.

1393) In light of undrawn and unutilized funds, the primary objective of reduction of HIV AIDS new infections by 75percent and related mortality rate by 25percent and value for money for the program may not have been achieved.

Submission by the Accounting Officer

1394) The Accounting Officer submitted that it was true that the program was not able to utilize the grant fully due to various systemic and change of governance structures due to devolution. The program could not utilize the funds because there were delays in releasing the cash for programmed activities from the donor and long procedures in getting concurrence to carry out activities at the counties causing unnecessary delays in implementing activities.

Committee Observations and Findings

1395) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to inability to utilize the grant within the project period was satisfactory ;
2) The inability to utilize the funds was attributed to devolution, delay by the donor to release funds and long procedures in getting concurrence to carry out activities; and
3) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

1396) The Committee observed that Paragraph 412 to 415 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and found as satisfactory.

KENYA HEALTH SECTOR SUPPORT PROGRAM III: DANIDA NONPOOL 104. KENYA.810.300 (GRANT)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

416 -419 Submission by the Accounting Officer

1397) The Accounting Officer submitted that the Ministry confirms that Kisii County Government was one of the beneficiaries under the **Danida Non-Pool 104.Kenya.810.300. (GRANT)(Annex III).** The Ministry is responsible and accountable to the extent of transferring funds from the designated grant to the County Revenue Fund of Kisii County Government, after which the onus of accountability of the funds based on the actual utilization and the cash balances at the close of the financial year is on the County.

1398) However, the Ministry has established that Kisii County Government had made responses to the Auditor General Office Kisumu hub on 30th May 2019.

Committee Observations and Findings

1399) The Committee observed and found that:
1) These paragraphs relate to Kisii County Government where the Project was implemented;
2) The funds transferred by the Ministry to Kisii County Government were audited by Auditor-General;
3) **Paragraph 420 on effectiveness of internal controls, risk management and governance was discussed and the submission by the Accounting Officer was satisfactory.**
4) The matters remained unresolved.

Committee Recommendations

1400) The Committee recommended that:

Paragraph 416-419 relating to the County Government of Kisii should be considered by the relevant Committee of the Senate or of the County Assembly of Kisii.

KENYA HEALTH SECTOR SUPPORT (EMMS) PROJECT (IDA NO.4771 AND 5034 – KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

421. Cash and Cash Equivalent

1401) The bank balance of Ksh.365,626,247 included in the statement of financial assets and liabilities as at 30 June 2018 include long outstanding payments in bank statement not in cashbook of Ksh.2,380,000 dating back to July 2016. No explanation has been provided for failing to clear these long outstanding items. Consequently, the accuracy and validity of the bank balance of Ksh.365,626,247 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1402) The Accounting Officer submitted that it was true that the bank balance of Ksh.s 365,626,247 included in the statement of Financial Assets and Liabilities as at 30 June 2018 include long outstanding payments in the bank not in cashbook of Ksh.s 2,380,000 dating back to July 2016. This payment was a double payment erroneously made through IFMIS to a company by the name Hill Converters Ltd. We have communicated to the director to refund the erroneous payment but he has failed. We handed the matter over to the Legal Office to deal with it.

Committee Observations and Findings

1403) The Committee observed and found that:

1) The long outstanding payment in bank statement not in cashbook of Ksh.s.2,380,000 has not been cleared; and
2) The matters remained unresolved.

Committee Resolution

1404) The Committee recommended that:

The Accounting Officer in the Ministry should deal with the matter and report to the Committee in 2018/2019.

1405) <u>The Committee observed that Paragraph 422 to 423 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

HEALTH SECTOR SUPPORT PROJECT – SWaP SECRETARIAT (IDA CR. NO. 4771-KE AND CR. NO.5367-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

424. Imprests and Advances

1406) The statement of financial assets and liabilities as at 30 June 2018 reflects imprests and advances of Ksh.21,106,696 out of which Ksh.490,098 had been outstanding for more than six (6) years. Under the circumstances, full recoverability of the outstanding imprest of Ksh.21,106,696 was doubtful.

Submission by the Accounting Officer

1407) The Accounting Officer submitted that it was true that the statement of financial assets and liabilities as at 30 June 2018 reflects imprests and advances of Ksh.s 21,068,695 out of which 490,098 had been outstanding for more than six years. The imprests were held by 3 officers, two of the officers have now surrendered the imprest and Ministry has initiated recovery process for the one officer with an imprest of Ksh.s 170,098.

No	Name	Warrant No	Date Taken	Imprest Amount	Remarks
1	Dr Peter Mbugua	1108499	15/6/2011	170,098.00	**Imprest Recovery through payroll initiated**
2	Allan Kobiya	1780541	18/07/2014	250,000.00	**Surrendered**
3	Wilson Maiwa	1503393	13/08/2014	70,000.00	**Surrendered**
	TOTALS			**490,098.00**	

Committee Observations and Findings

1408) The Committee observed and found that:

1) The Committee observed that that the Ministry had recovered two (2) outstanding imprests of Ksh.s.320,000.00 and initiated the recovery of Ksh.s.170,098.00; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

425. Cash and Bank Balances- Stale Cheques

1409) The statement of financial assets and liabilities reflects bank balance of Ksh.239,647,556 as at 30 June 2018. However, the bank reconciliation statement reflects payments in the cashbook not reflected in the bank statement (unpresented cheques) totalling to Ksh.225,375,658 out of which cheques totalling Ksh.928,200 were stale as at 30 June 2018 and had not been reversed in the cashbook. In addition, the clearance status of cheques with a value of Ksh.138,000 and Ksh.212,250 was not provided for audit verification. In the circumstances, the accuracy of bank balance of Ksh.239,647,556 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1410) The Accounting Officer submitted that it was true that the statement of financial assets and liabilities reflects bank balance of Ksh.239,547,556 as at 30 June 2018. It is further true that the bank reconciliation statement reflects payments in cashbook not reflected in the bank statement (unpresented cheques) totaling Ksh.s 225,375,658 out of which cheques totaling Ksh.s 928,200 were stale as at 30 June 2018 and had not been reversed in the cashbook. In addition, the clearance status of cheques with a value of Ksh.s 138,000 and Ksh.s 212,250 were not provided for audit verification. The stale cheques of Ksh.928,200 were reversed in the Cashbook in July 2018 in the financial year 2018/19. We have since provided clearance status cheques of Ksh.s 138,000 and Ksh.s 212,250 for audit verification.

Committee Observations and Findings

1411) The Committee observed and found that:

1) The uncleared cheques and stale cheques have been reversed in the Cashbook; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

426. Receipts- Loan from External Development Partners

1412) The statement of receipts and payments for the year ended 30 June 2018 reflects loan from external development partners of Ksh.1,791,653,859 which comprised of 182 Ksh.1,030,500,740 from KHSSP - SWap special account and Ksh.761,153,120 from KHSSP-HSSF. However, the special account statement indicated that a total of Ksh.1,146,923,320 was withdrawn and transferred from the special account to the project account during the year under review. No explanation or reconciliation was provided for the resultant difference of Ksh.116,422,580. In addition, the amount of Ksh.1,030,500,740 from KHSSP - SWap special account differed from the figure of Ksh.1,031,850,536 reflected in the development exchequer issue notification from the National Treasury by Ksh.1,349,796. The difference has similarly not been explained or reconciled.

1413) Under the circumstances, the accuracy and completeness of the loan from external development partners figure of Ksh.1,791,653,860 could not be ascertained for the year ended 30 June 2018.

Submission by the Accounting Officer

1414) The Accounting Officer submitted that it was true that the statement of receipts and payments for the year ended 30 June 2018 reflects loan from external development partners of Ksh.1,791,653,859 which comprised of Ksh.s 1,030,500,740 from KHSSP- Swap Special Account and Ksh.s 761,153,120 from HSSF, the Special Account statement indicated that a total of Ksh.s 1,146,923,320 was withdrawn and transferred from the Special Account to the Project Account during the year under review, resulting difference of Ksh.s 116,422,580. The amount of Ksh.s 131,340,962 transmitted on 29th June 2018 and received in the Project's Swap account on 2 July 2018 includes the difference of Ksh.116,422,580.

1415) It was further true that the amount of Ksh.s 1,030,500,740 from Swap Special Account differed from the figure of Ksh.s 1,030,850,536 reflected in the Development Exchequer issue notification from the National Treasury by Ksh.s 1,349,796. The exchequer received of Ksh.s 1,031,850,536 was to be disbursed in the Ministry's' budget in 2 tranches. During transfer of funds into the project account for the 2 tranches, Ksh.s 515,925,268 was erroneously processed instead of Ksh.515,250,369 resulting to underpayment of Ksh.s 1,349,796. The anomaly has since been corrected and the underpayment transferred into Swap account.

Committee Observations and Findings

1416) The Committee observed and found that:

1) The difference of Ksh.s.116,422,580 had not been accounted for or explained;
2) The amended financial statements had not been availed for audit review and verification; and
3) The matter remained unresolved.

Committee Recommendations

1417) The Committee recommended that:

1) **The Accounting Officer should within three months of tabling and adoption of this report, submit to the Auditor-General documents accounting for the difference of Ksh.s.116,422,580.**
2) **The amended financial statements should be availed immediately to the Auditor-General for audit review and verification.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

427. Transfers to Other Government Entities

1418) Note 8.7 to the financial statements indicates that a total of Ksh.1,625,129,741 was transferred to five (5) self-reporting entities. However, confirmations totaling to Ksh.799,375,289 had not been received from the beneficiary institutions as at 30 June 2018 contrary to the Public Sector Accounting Standards Board requirements. No explanation was provided for the omission.

Submission by the Accounting Officer

1419) The Accounting Officer submitted that it was true that Note 8.7 in the Financial Statements indicates that a total of Ksh.s 1,625,129.741 was transferred to five self-reporting entities. Further, no confirmations totaling to Ksh.s 799,375,289 had not been provided for audit verification. She provided confirmation letters from entities acknowledging receipt of funds totaling 799,375,289.

Committee Observations and Findings

1420) The Committee observed and found that:

1) The confirmation letters from the self-reporting entities acknowledging receipt of Ksh.s.799,375,289 had been availed for audit review; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

1421) <u>The Committee observed that Paragraph 428 on effectiveness of internal controls, risk management and governance was discussed and found as satisfactory.</u>

EAST AFRICA'S CENTRES OF EXCELLENCE FOR SKILLS AND TERTIARY EDUCATION IN BIOMEDICAL SCIENCES – PHASE I (CR NO. 2100150031997)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer Opinion

429. Unsupported Receipts

1422) Included in the statement of receipts and payments for the year ended 30 June 2018 are receipts of Ksh.13,531,743 and Ksh.17,067,557 totaling Ksh.30,599,300 from Government of Kenya whose supporting documents and ledgers were not availed for audit review. Consequently, the completeness and validity of the receipts of Ksh.30,599,300 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1423) The Accounting Officer submitted that it was true that included in the statement of receipts and payments for the year ended 30 June 2018 are receipts of Ksh.s.13,531,743 and Ksh.s.17,067,557 from Government of Kenya whose supporting documents and ledgers were not availed for audit review. However, we have provided the documents supporting receipts of Ksh.13,531,743 and copies of payment vouchers of Ksh.17,067,557 for review.

Committee Observations and Findings

1424) The Committee observed and found that:

1) The payment vouchers of Ksh.s.1,335,460.00 has not been availed for audit review and verification; and
2) The matter remained unresolved.

Committee Recommendations

1425) The Committee recommended that:

1) **The payment vouchers of Ksh.1,335,460.00 should be availed within three months of adoption of this report to the Auditor-General for audit review and verification**.

430. Unsupported Expenditure

1426) Included in the statement of receipts and payments for the year ended 30 June 2018 is purchase of goods and services comparative amount of Ksh.54,410,806. As reported in 2016/2017 this figure includes an amount of Ksh.9,122,745 in respect of imprest and whose surrender and ledger documents were not availed for audit review.

Submission by the Accounting Officer

1427) The Accounting Officer submitted that it was true that included in the statement of receipts and payments for the year ended 30 June 2018 purchase of goods and services comparative amount of Ksh.s.54,410,806. As reported in 2016/2017 includes an amount of Ksh.s.9,122,745 in respect of imprest and whose surrender and ledger documents were not availed for audit review. We have since provided copies of payment vouchers supporting the amount of Ksh.9,122,745.

Committee Observations and Findings

1428) The Committee observed and found that:

1) The payment vouchers of Ksh.s.1,335,460.00 had been availed for audit review and verification; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1429) The Committee recommended that:

The amended financial statements should be availed within three months of adoption of this report to the Auditor-General for audit review and verification.

431. Unsupported Cash and Cash Equivalent Balances

1430) Included in the statement of financial assets and liabilities as at 30 June 2018 is a bank balance of Ksh.4,909,518. However, as reported in 2016/2017, the project management did not provide documents in support of the 2016/2017 opening balance of Ksh.6,236,169. Further, the opening balance of Ksh.6,236,169 was not taken into account in arriving at the closing balance of Ksh.4,909,518 as at 30 June 2018 as it was excluded in the opening balance of Ksh.9,203,765 as at 1 July 2017.

1431) In addition, the bank reconciliation statement reflects payments in cashbook not in the bank statement of Ksh.1,299,025 out of which cheques totaling Ksh.139,675 were stale as at 30 June 2018 but had not been reversed in the cashbook. Further, the clearance status of the unpresented cheques balance of Ksh.1,159,350 was not provided for audit confirmation. Similarly, the reconciliation statement reflects receipts in bank statement not yet recorded in the cashbook of Ksh.84,000 and payments in the bank statement not yet recorded in the cashbook of Ksh.252,000 and whose clearance status as at the time of the audit in October 2018 was not availed for audit verification. Consequently, the accuracy of the bank balance of Ksh.4,909,518 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1432) The Accounting Officer submitted that it was true that as reported in 2016/2017, the project management did not provide documents in support of opening balances of Ksh.s.6,236,169 which was not taken into account in arriving at the closing balance of Ksh.s.4,909,518 as at 30 June 2018. This amount had been returned to Central bank by the MOH Development Account which managed funds as project Bank Account was not operationalized. This amount was refunded back to the project bank Account in January 2018 and recorded in the project cashbook and bank Account.

1433) It was further true that the bank reconciliation statement reflects payments in cashbook not in the bank statement of Ksh.s.1,299,025 out of which cheques totaling Ksh.s.139,675 were stale as at 30 June 2018 but had not been reversed in the cashbook. Further, the clearance status of the unpresented cheques balance of Ksh.s.1,159,350 was not provided for audit confirmation. In addition, the reconciliation statement reflects receipts in bank statements not yet recorded in the cashbook of Ksh.s.84,000 and payments in the bank statements not yet recorded in the cashbook of Ksh.s.252,000 and whose clearance status as at the time of the audit in October 2018 was not availed for audit verification.

1434) However, we have provided status of uncleared cheques of 2017/18 which were effected in the 2018/19 statements and copy of bank reconciliation statements showing when the cheques cleared. The receipts in bank statement of Ksh.84,000 and payment in the bank statements of Ksh.252,000 were captured in the cashbook in July 2018/2019 financial year and copy of the cashbook extracts, F.O, 17 and Miscellaneous Receipts are provided for audit verification.

Committee Observations and Findings

1435) The Committee observed and found that:

1) The Committee observed that that the supporting documents for 2016/2017 opening balance of Ksh.s.6,236,169 has not been availed for audit review and verification;
2) The Committee also observed that the opening balance of Ksh.s.6,236,169 was not included in the closing balance of Ksh.s.9,203,765; and
3) The matter remained unresolved.

Committee Recommendations

1436) The Committee recommended that:

1) **The Accounting Officer should within three months of tabling and adoption of this report, submit to the Auditor-General supporting documents for 2016/2017 opening balance of Ksh.s.6,236,169.**
2) **The amended financial statements should be availed immediately to the Auditor-General for audit review and verification.**

432. Compensation of Employees

432.1 Delay in Remittance of P.A.Y.E

1437) The statement of receipts and payments reflects compensation of employees totaling Ksh.9,550,500 for the year ended 30 June 2018. It was however noted that the project management delayed to remit the monthly P.A.Y.E deductions from the project manager's salaries for a period of thirteen (13) months at the rate of Ksh.137,775 per month contrary to Section 72D of the Income Tax Act Cap 470 (Revised 2017). As a result, the project is likely to incur penalties at the rate of 20 per cent of amount paid late as prescribed.

Submission by the Accounting Officer

1438) The Accounting Officer submitted that it was true that the statement of receipts and payments reflects compensation of employees totaling Ksh.s.9,550,500 for the year ended 30 June 2018. It, was also noted that the project management delayed to remit the monthly P.A.Y.E deductions from the project manager's salaries which is likely to cause the project to incur penalties at the rate of 20percent (per cent) of amount paid late as prescribed. The delayed remittances of payee were occasioned by IFMIS System downtime. However, this challenge has been improved since we no longer experiencing delays.

Committee Observations and Findings

1439) The Committee observed and found that:

1) The supporting documents for PAYE remittance had not been availed for audit review and verification; and
2) The matter remained unresolved.

Committee Recommendations

1440) The Committee recommended that:

The Accounting Officer should within three months of tabling and adoption of this report, submit to the Auditor-General supporting documents for PAYE remittance.

432.2 Delay in Salary Payments

1441) A review of sampled monthly salary and personnel documents revealed that on various occasions there were delays in payment of salaries to the project manager contrary to Paragraph 18 (2c) of the Employment Act Cap 226 Revised Edition 2012 (2007).

Submission by the Accounting Officer

1442) The Accounting Officer submitted that a review of salary and personnel documents revealed that on various occasions there were delays in payment of salaries to the project manager contrary paragraph 18 (2c) of the Employment Act Cap 226 revised Edition 2012 (2007).

The delayed remittances of payee were occasioned by Ifmis System downtime. However, this challenge has been improved since we no longer experiencing delays.

Committee Observations and Findings

1443) The Committee observed and found that:

1) The delayed payments were settled and vouchers availed for audit review and verification; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

433. Delays in Project Completion

1444) The project commencement date was 17 December 2014 with a projected end date of 31 December 2019. A review of the project status as at 30 June 2018 revealed that the project has less than 18 months to the project ending period. However, some major milestones for the project are yet to commence including the construction of the East Africa Kidney Institute Complex thus delaying implementation of other activities. Consequently, the government is likely to start repaying the loan before the project objectives are achieved and thus the expected project benefits to the public will not be realized in time, a clear indication that value for money may not be achieved by the stakeholders.

Submission by the Accounting Officer

1445) The Accounting Officer submitted that the Project Appraisal Report considers the actual commencement date to be 9/7/2015 and not 17 December 2014 when the loan was signed.
Since 2015, the Project has made significant progress in the areas of training and Batch 1 of provision of Medical equipment for the existing renal unit at KNH.

1446) The third component of the project is Construction of the EAKI complex. Due to unforeseen circumstances, for instance the time required for Stakeholder consultations and inputs in the project design and approval processes the construction has delayed. Due to the fore goings, discussions were held between the AfDB, MOH, TNT and other stakeholders and the project period was extended up to December 2021. Towards this end the contract for the construction of the EAKI complex has now been signed and the site handed over to the contractor. Once the construction begins the project financial performance will remarkably improve.

Committee Observations and Findings

1447) The Committee observed and found that:

1) The project extension approval and the status report had not been availed for audit review and verification; and
2) The matter remained unresolved.

Committee Recommendation

1448) The Committee recommended that:

1) **The CS National Treasury should within three (3) months of tabling and adoption of this report issue a written reprimand to the Accounting Officer perpetual delays in submission of accounting documents to the Auditor-General contrary to the provided timelines in the PFM Act, 2012.**
2) **The Accounting Officer should immediately submit to the Auditor-General documents for the project extension approval and the status report.**

1449) <u>The Committee observed that Paragraph 434 to 435 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and found as satisfactory.</u>

GLOBAL FUND TUBERCULOSIS GRANT PROGRAMME (GRANT NO. KEN-T-TNT-854 AND KEN-T-TNT-1548)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

436. Accounts Receivables-Outstanding Imprest and Advances

1450) The statement of financial assets reflects accounts receivable-imprest and advances balance of Ksh.4,507,064 as at 30 June 2018. However, imprest and advances totaling to Ksh.3,316,184, some dating back to 2011/2012 financial year, were overdue as at 30 June

2018. Consequently, it has not been possible to confirm the validity and recoverability of the imprest and advances balance of Ksh.3,316,184.

Submission by the Accounting Officer

1451) The Accounting Officer submitted that true that the financial assets reflects accounts receivable-imprest and advances balance of Ksh.4,507 064 as at 30 June 2018.It is further true that imprests and advances totaling Ksh.3,316,184 include those outstanding dating back to 2011/2012 financial year.

The Ministry has written letters to the County Coordinators to enforce recovery of the long outstanding imprest.

Committee Observations and Findings

1452) The Committee observed and found that:

1) The long outstanding for imprests and advances of Ksh.s.3,316,184 had not been recovered; and
2) The matter remained unresolved.

Committee Recommendation

1453) The Committee recommended that:

The CS National Treasury should within three (3) of tabling and adoption of this report issue a written reprimand to the Accounting Officer for failure to recover long outstanding imprests and advances of Ksh.s.3,316,184.

1454) <u>The Committee observed that Paragraph 437 to 441 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and the explanation by the Accounting Officer was satisfactory.</u>

HEALTH SECTOR SUPPORT PROJECT – HEALTH SECTOR SERVICES FUND (HSSF) GRANT NO. 4771 – KE AND TF-16027

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

442. Unsupported Cash Balances

1455) The statement of financial assets and liabilities reflects bank balances of Ksh.1,029,248,879 as at 30 June 2018. Included in this balance is Ksh.657,875,266 in respect of bank balances from forty-seven (47) counties that were not supported with bank confirmation certificates, bank reconciliation statements and cashbooks. 187 Consequently, the validity and accuracy of the cash and cash equivalents balance of Ksh.1,029,248,879 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Office

1456) The Accounting Officer submitted that it was true that the financial assets and liabilities reflect a balance of Ksh.s 1,029,248,879 and that Ksh.s 657,875,266 is in respect of bank balances from 47 counties that were not supported with bank certificates, bank reconciliation statements and cashbook. There was an audit carried out by IIFRA- Wachira Irungu and Associates, an audit firm contracted by the World Bank to verify the figures. The report provided indicates that out of the total of Ksh.s 657,875,266 only Ksh.s 139,795,011 from 12 counties still remain unsupported.

1457) The World Bank then organized a meeting comprising of representatives from the ministry (KHSSP), Office of the Auditor General and the World Bank with a view to harmonize the two reports. It was agreed that the officers from the OAG should verify the report from Wachira Irungu and Associates and adopt the report if it is found agreeable. The Ministry will send officers to verify documents at the counties and provide support documents to confirm the remaining balance.

Committee Observations and Findings

1458) The Committee observed and found that:

1) The supporting documents of bank balance of Ksh.657,875,266 have not been availed for audit review and verification; and
2) The matter remained unresolved.

Committee Recommendations

1459) The Committee recommended that:

1) **The CS National Treasury should within three (3) of tabling and adoption of this report issue a written reprimand to the Accounting Officer perpetual delays in submission of accounting documents to the Auditor-General contrary to the provided timelines in the PFM Act, 2012.**
2) **The Accounting Officer should immediately submit to the Auditor-General supporting documents of bank balance of Ksh.657,875,266.**

1460) <u>The Committee observed that Paragraph 443 to 445 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and submission by the Accounting was satisfactory.</u>

Other Matter

446. Inability to Utilize the Grant within the Project Period

1461) The Output Based Approach (OBA) Reproductive Health Program was intended to contribute in reduction to both maternal and infant mortality rates by improving access to and utilization of reproductive health services by the economically disadvantaged populations. As disclosed under the funding summary section of the annual report and financial statements, the project (Phase I-IV) was expected to end 188 in January 2018 with total available funding of Ksh.3,273,686,056 (EURO 30,200,000).

1462) A review of the annual report and financial statements for the year ended 30 June 2018, however, reflect undrawn balances of Ksh.96,511,077 (EURO 1,055,376) and cash and cash equivalent balance of Ksh.15,197,361 as at 30 June 2018 which is likely to be refunded to the donor as no project extension is in place. In light of undrawn and unutilized funds, the primary objective of reduction of both maternal and infant mortality rates and subsequent value for money for the program may not be achieved.

Submission by the Accounting Officer

1463) The Accounting Officer submitted that the undrawn balances of Ksh.96,511,077 (Euro 1.055,376) and cash and cash equivalent balance of Ksh.15,197,361 which is likely to be refunded to the donor was as a result of the plan by government to introduce the UHC model in health care financing therefore reducing workload under the project.

Committee Observations and Findings

1464) The Committee observed and found that:

1) The inability to utilize the Grant within the Project Period was attributed to reduced workload after introduction of UHC model by the Government; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

1465) <u>The Committee observed that Paragraph 447 to 448 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and submission by the Accounting was satisfactory</u>.

SUPPORT OF THE HEALTH FINANCING STRATEGY REPRODUCTIVE HEALTH - OUTPUT BASED APPROACH (RH - OBA) - PROJECT CREDIT BMZ - NO. KENYA 201065853

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

449. Use of Goods and Services-None compliance with Contractual Obligations

1466) Included in use of goods and services expenditure (payments made by third parties) of Ksh.53,799,700 in the statement of receipts and payments for the year ended 30 June 2018, is an expenditure of Ksh.28,646,500 paid to a health insurance consulting firm. Information available indicate that the consultant entered into a 189 contract with the Ministry of Health to perform consulting services on micro health insurance through micro-finance institutions (BMZ-Ref No. 201065853) on 22 December 2014 for a duration of five (5) years ending 1 October 2019 for a fixed order value of EUR 3,000,000 (Ksh.330,000,000). Section 5.2 of the contract Detailed disbursement plan provides for annual external audit report during the project period. A review of disbursements to the consultant in respect of the project up to 30 June 2018 revealed that a total of Ksh.229,946,500 of the order value had been paid despite the fact that no financial statements had been prepared and presented for audit by the consultant.

1467) In the circumstances, the propriety of expenditure totaling Ksh.229,946,500 paid for the programme cannot be confirmed. Further, information available indicate that Support of the Health Financing Strategy Output Based Programme project was officially scheduled to end on 30 October 2017 while the micro health project which is operating under the Support of the Health Financing Strategy-OBA programme is scheduled to end on 1 October 2019 with the final report expected on 1 April 2020. The project management has not explained how the micro health project will be managed beyond the period of the main project, which has already come to an end.

Submission by the Accounting Officer

1468) The Accounting Officer submitted that true that Included in use of goods and services expenditure (payments made by third parties) of Ksh.s.53,799,700 in the statement of receipts and payments for the year ended 30 June 2018, is an expenditure of Ksh.s.28,646,500 paid to Jawabu Micro Finance Limited. Information available indicate that Jawabu Micro health Limited. It was also true as per Annex 6 of the contract stipulates that external audit report was to be produced annually starting 1 April 2016 with 20percent of the annual invoice covering the external audit costs which was not been provided at time of audit. The firm (Jawabu Micro finance Ltd) awarded the contract have provided audited accounts by Warren Associates which were presented and approved by the donor (Kfw) before payment were made. Audited accounts from Jawabu micro health finance have been provided for audit verification.

1469) It was further true that, Output Based Programme project was officially scheduled to end on 30 October 2017 while order value project which is operating under OBA programmme was scheduled to end on 1 October 2019 with the final report expected on 1 April 2020.The programme management unit are holding negotiation with Donor (Kfw) with a provision of extension of the main project period through joint report between MOH and Partner (KWF).

Committee Observations and Findings

1470) The Committee observed and found that:

1) The supporting documents for the project extension to 01 April 2020 has not been availed for audit review and verification; and
2) The matter remained unresolved.

Committee Recommendations

1471) The Committee recommended that:

1) **The CS National Treasury should within three (3) of tabling and adoption of this report issue a written reprimand to the Accounting Officer for perpetual delays in submission of accounting documents to the Auditor-General contrary to the provided timelines in the PFM Act, 2012.**
2) **The Accounting Officer should immediately submit to the Auditor-General supporting documents for the project extension to 01 April 2020.**

Other Matter

450. Undrawn Balances at the end of the Project Period

1472) The Republic of Kenya entered into a Financing agreement with KfW, Frankfurt am Main (KfW) for Programme Development of the Health Sector Support of the Health

Financing vouchers for maternity care, family planning and related services within the framework of the Output Based Approach on 7 October 2011 with the project closing date being 30 October 2017. The grant amount together with residuals was EURO 30,867,630 equivalent to Ksh.3,642,380,315. The Output Based approach (OBA) was intended to contribute in reduction to both maternal and infant mortality rates by improving access to and utilization of reproductive health services by the economically disadvantaged populations. A review of the financial statements for the year ended 30 June 2018 shows undrawn balance of EURO 4,709,273 equivalent to Ksh.555,694,239 and cash and cash equivalent balance of Ksh.20,432,354 which is likely to be refunded to the donor. Further, the project continued operating with no extension of programme period in place. In light of undrawn and unutilized balances, the primary objective of project and value for money for the programme may not be realized.

Submission by the Accounting Officer

1473) The Accounting Officer submitted that true that the Republic of Kenya entered into a Financing agreement with KfW, Frankfurt am Main (KfW) for Programme Development of the Health Sector Support of the Health Financing vouchers for maternity care, family planning and related services within the framework of the Output Based Approach on 7 October 2011 with the project closing date being 31 October 2017. The grant amount together with residuals was EURO 30,867,630 (Ksh.s.3,642,380,315).

1474) The Output Based approach (OBA) was intended to contribute in reduction to both maternal and infant mortality rates by improving access to and utilization of reproductive health services by the economically disadvantaged populations. It was also true that the financial statements for the year ended 30 June 2018 reflected undrawn balances of EURO 4,033,786 (Ksh.s.555,694,239) and cash and cash equivalent balance of Ksh.20,432,354 which is likely to be returned to the donor.

1475) The undrawn balances of EURO 4,033,786 (Ksh.s.555, 694,239) and cash and cash equivalent balance of Ksh.20,432,354 which is likely to be returned to the donor was as a result of introduction of free maternity services in the Government health facilities thus reducing reimbursement costs to these facilities which was a core activity of the programme. The programme management unit are holding negotiation with Donor (Kfw) with a provision of extension of the main project period through joint report between MOH and Partner-KWF.

Committee Observations and Findings

1476) The Committee observed and found that:

1) The under-utilization of funds had been attributed to introduction of free maternity services in Government health facilities;
2) The negotiations for the project extension were on-going; and
3) The Accounting Officer provided a satisfactory explanation on the matter and therefore The matter be resolved.

1477) The Committee observed that Paragraph 451 to 456 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and found as satisfactory.

Other Matter

457. Budgetary Control and Performance

457.1 Budget Absorption

1478) During the year under review, the Project had a total budget of Ksh.119,769,567 against actual expenditure of Ksh.52,095,618 resulting in under absorption of Ksh.82,486,634. The under expenditure of the approved budget is likely to negatively impact on the overall achievement of project objectives and goals.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

458. Receipts

458.1 Term Deposits

1479) The statement of receipts and payments for the year ended 30 June 2018 reflects miscellaneous receipts figure of Ksh.1,851,681 which includes an amount of Ksh.1,695,342 in respect of interest income. Available information revealed that the interest income of Ksh.1,695,342 was interest in respect of payment by a local bank on a term deposits of Ksh.80,000,000 invested in the Bank by the University contrary to article II Section 2.05 of the subsidiary grant agreement between the government of Kenya and Moi University dated 27 October 2016. In addition, no procurement records were availed for audit review to confirm that the investment was competitively sourced and that the University got the best interest. Further, no evidence was provided for audit review to confirm that the University Council approved the investment. Consequently, the management was in breach of subsidiary grant agreement and the general disbursement guidelines for World Bank Projects.

Committee Observations and Findings

1480) The Committee observed and found that:

1) The Committee observed that Paragraph 59 on effectiveness of internal controls, risk management and governance was discussed and the submission by the Accounting Officer was satisfactory; and
2) The Committee marked the matter as resolved.

16.0. STATE DEPARTMENT OF INFRASTRUCTURE

FINANCIAL STATEMENTS FOR VOTE 1091

Prof. Paul Mwangi Maringa, the Principal Secretary and Accounting Officer for the State Department of Infrastructure (Vote 1091) appeared before the Committee on 12th March 2020 to adduce evidence on the Audited Financial Statements for the State Department of Infrastructure (Vote 1091) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). The following officials accompanied him:

1.	Eng. Peter Mundinia	-	Director General KNHA
2.	Mr. Reuben Mayienda	-	Director Corporate Services KURA
3.	Eng. James Kangu	-	Chief Engineer Roads
4.	Ms. Sophic Mwangashi	-	Assistant Accountant general
5.	Mr, Philip Wachira	-	Chief Finance Officer
6.	Mr. Joseph Muoka	-	Finance Officer

Basis for Adverse Opinion

460. Inaccuracies in the Financial Statements

1481) The financial statements for the year ended 30 June 2018 did not balance and reflect the following material inaccuracies.

460.1 Unbalanced Trial Balance - Suspense and Clearance Accounts

1482) The trial balance for the year ended 30th June 2018 did not balance as it reflects Ksh.676,928,451 (Debit) and Ksh.355,031,018 (Credit) described as Suspense and Clearance Accounts. Management has not investigated the balances.

Submission from the Accounting officer

1483) The Accounting Officer submitted that the trial balance for the year ended 30th June 2018 did not balance as it reflected Ksh.676,928,451(Debit) and Ksh.355,031,018 (Credit) described as suspense and clearance accounts. The same had not been analyzed at the time of the audit review. Subsequently, the State Department carried out an investigation of the composition of the amounts for suspense reflected in the Financial Statements which had been brought forward from the prior periods starting July 2014. In the course of the investigation, the State Department discovered errors and mispostings in the prior financial statements which were analyzed and the correct balances reflected so as to ensure the correct balances brought forward are reflected in the State Department's Financial Statements. The revised Financial Statement for 2017/2018 has been availed to the auditors. A copy of the same was tabled to the Committee**.** The revised Financial Statements for the FY 2017/2018 reflect the true position of the State Department's suspense amounting to Ksh.36, 415,629.50 that has since been captured in the revised Financial Statements. The Management is making efforts to ensure the suspense is cleared.

Committee Observations and Findings

1484) The Committee observed and found that:

1) The figures have gradually reduced to Ksh.s.36,415,630 after the management identified and reconciled prior year's errors;
2) The balance of Ksh.s.36,415,630 is yet to be reconciled; and
3) The issue remained unresolved.

Committee Recommendation

1485) The Committee recommended that:

The Accounting Officer should within three (3) months of tabling and adoption of this report, reconcile the trial balance and clear the outstanding amount in the suspense account. The reconciled trial balance should be submitted to the Auditor-General for audit and reporting.

460.2 Cash and Cash Equivalents

460.2.1 Development Bank Account

1486) Included in the cash and cash equivalent balance of Ksh.2, 655,834,850 as at 30th June 2018 is an amount of Ksh.2, 244,259,194 being development bank account balance. This amount is at variance with the trial balance figure of (Ksh.88, 564,683,918) resulting to unexplained and unreconciled difference of Ksh.90, 808,943,112. In addition, the bank reconciliation statement for development account has Ksh.4, 875,005 as payments in cashbook not in bank all of which were over six (6) months as at the time of audit. Further, Ksh.3, 350,700 was reflected as receipt in bank not in the cashbook and Ksh.2, 045,624 being payments in bank not in the cashbook nor reconciled with IFMIS figures.

Submission from the Accounting Officer

1487) The Accounting Officer admitted that the development bank balances included as part of cash and cash equivalents of Ksh.2,244,259,194 differed with the IFMIS figure of (Ksh.88,564,683,918). This difference arose as a result of a backlog of prior period auto-reconciliation process that remained unreconciled in the IFMIS. The State Department has engaged technical support from the National Treasury's Accounting Services and IFMIS Directorates in order to resolve these outstanding issues. Through the guidance and support of the team, the auto-reconciliation processes have been brought up to date resulting in the resolution of these long outstanding unreconciled items. The balances reported as per the revised financial Statements now tie with the figures in the IFMIS**.**

Committee Observations and Findings

1488) The Committee observed and found that:

1) The variance has since been reconciled and the balances tied with the figures in the IFIMIS; and
2) The Accounting Officer satisfactorily explained the matter and therefore, the Committee resolved the matter.

460.2.2 Recurrent Bank Account

1489) Included in the cash and cash equivalent balance of Ksh.2, 655,834,850 as at 30th June 2018 is an amount of Ksh.199, 020,416 being recurrent bank account balance. This amount is at variance with the trial balance figure of Ksh.17, 416,693,411 resulting to unexplained and unreconciled difference of Ksh.17, 217,672,995. In addition, the reconciliation statement for recurrent account has Ksh.18, 253,404 being payments in cashbook not in the bank statement of which Ksh.9, 608,371 are stale cheques. In addition, Ksh.12, 695,351 are receipts in bank statement not in cashbook. It was not explained why the cashbook was not updated. Further, the reconciliation statement reflects payments in bank not recorded in cashbook of Ksh.4, 434,680 and receipt in cashbook not recorded in bank of Ksh.11, 090,993. This was an indication that the cashbook was not updated and reconciliation were prepared outside IFMIS system.

Submission from the Accounting Officer

1490) The Account Officer submitted that the recurrent bank balances included as part of cash and cash equivalents of Ksh.199,020,416 differed with the IFMIS figure of Ksh.17,416,693,411. This difference arose because of a backlog of prior period auto-reconciliation process that remained unreconciled in the IFMIS. The State Department has engaged technical support from the National Treasury's Accounting Services and IFMIS Directorates in order to resolve these outstanding issues. Through the guidance and support of the team, the Auto-reconciliation processes have been brought up to date resulting in the resolution of these long outstanding unreconciled items. The balances reported as per the Financial Statements now tie with the figures in the IFMIS**.**

Committee Observations and Findings

1491) The Committee observed and found that:

1) The variance has since been reconciled and the balances tied with the figures in the IFIMIS; and
2) The Accounting Officer satisfactorily explained the matter and therefore, the Committee resolved the matter.

460.2.3 Deposit

1492) The cash and cash equivalent balance of Ksh.2,655,834,850 as 30 June 2018 include Ksh.212, 555,241 described as deposits. Management has not provided analysis of who the deposits belongs to. Further, the deposit balance of Ksh.212, 555,241 was at variance with the trial balance figure of Ksh.309, 435,345 by unexplained and unreconciled difference of Ksh.96, 880,104.

Submission from the Accounting Officer

1493) The Deposit bank balances included as part of cash and cash equivalents of Ksh.212,555,241 differed with the IFMIS figure of Ksh.309,435,345. This difference arose as a result of a backlog of prior period auto-reconciliation process that remained unreconciled in the IFMIS. The State Department has engaged technical support from the National Treasury's Accounting Services and IFMIS Directorates in order to resolve these outstanding issues. Through the guidance and support of the team the Auto-reconciliation processes have been brought up to date resulting in the resolution of these long outstanding unreconciled items. The balances reported as per the Financial Statements now tie with the figures in the IFMIS.

Committee Observations and Findings

1494) The Committee observed and found that:

1) The variance has since been reconciled and the balances tied with the figures in the IFIMIS; and
2) The Accounting Officer satisfactorily explained the matter and therefore, the Committee resolved the matter.

460.2.4 Unreported Bank Balances

1495) Excluded from the above cash and cash equivalent is an amount of Ksh.4,004,785 and Ksh.25,056,895,967 being Kenya Transport Sector Support Project and the Road Annuity Fund respectively. It was therefore not possible to ascertain the accuracy and completeness of the cash and cash equivalent balance of Ksh.2, 655,834,850 as at 30 June 2018.

Submission from the Accounting Officer

1496) The Accounting Officer submitted that the Kenya Transport Sector Support Project has since been included in the revised Financial Statements. However, the Roads Annuity Fund balance inadvertently not captured in the Financial Statement for FY 2017/18, the same will be captured in the revised Financial Statements for FY 2018/19.Despite the foregoing a separate Financial Statement for the Road Annuity Fund for 2017/18 was prepared and submitted to the Auditor General.

Committee Observations and Findings

1497) The Committee observed and found that:

1) The Financial Statement was revised and the accuracy and completeness of the cash and cash equivalent balance of Ksh.2, 655,834,850 as at 30 June, 2018 ascertained;
2) The omission will be included in revised Financial Statement for Financial Year 2018/19 and therefore the matter is resolved.

Committee Recommendation

1498) The Committee recommended that:

The Auditor-General to undertake a further audit of financial statements that include the Roads Annuity Fund balance for FY 2017/18 and report in the subsequent audit cycle.

460.3 Exchequer Release

1499) The exchequer releases balance of Ksh.52,873,956,581 as disclosed in note 3 to the financial statements is at variance with the trial balance figure of Ksh.254,572,836,570 resulting to unreconciled difference of Ksh.201,698,879,989. In the circumstance, it was not possible to ascertain the correctness and accuracy of the exchequer releases balance of Ksh.52, 873,956,581 as at 30 June, 2018.

Submission from the Accounting Officer

1500) The Accounting Officer reported that as per the standard chart of accounts in IFMIS, exchequer is classified under code 9910201- exchequer releases/provisioning account which is cumulative from previous years to the current year. The difference between the cumulative exchequer of previous years and the current year results in a figure of Ksh.52, 873,956,581 which ties with exchequer releases from the IFMIS Statement of Receipts and Payments attached.

Committee Observations and Findings

1501) The Committee observed and found that the explanations given by the Accounting Officer with regard to the cumulative exchequer of previous years and the current year was satisfactory and marked as resolved.

461. Account Receivables

461.1 Clearance Account

1502) Included in the accounts receivable balance of Ksh.1,643,354,782 as at 30 June 2018 is Ksh.1,104,260,165 being clearance account which was at variance with the trial balance figure of Ksh.676,928,451 by Ksh.427,331,714. Management has not provided supporting documents for the total balance of Ksh.1, 104,260,165. In addition, management has not carried out any investigations on the course of the suspense and clearance accounts.

Submission from the Accounting Officer

1503) The Account Officer submitted that this was as a result of cumulative incompleteness of year end closing procedures and auto reconciliation process that remained outstanding from prior periods. The same has been corrected in the revised Financial Statement with the support from the technical team from the National Treasury's IFMIS and Accounting services Directorates The State Department was able to drilldown the incomplete procedures and uncleared effects outstanding in the system for the periods to date. The same has now been fully completed and reconciled resulting in the system reflecting the figures as supported in the Financial Statements. Going forward, the State Department has embarked on a comprehensive training and capacity building programme in order to ensure the State Department's staff are fully sensitized on the requisite year end closing procedures and IFMIS reconciliation processes to ensure such errors do not recur in future.

Committee Observations and Findings

1504) The Committee observed and found that:

1) The variance has since been reconciled and the balances tied with the figures in the IFIMIS; and
2) The Accounting Officer satisfactorily explained the matter and therefore, the Committee resolved the matter.

461.2 Other Debtors and Prepayments and Agency Account

1505) Further, the account receivables balance of Ksh.1,643,354,782 as at 30 June 2018 excludes an amount of Ksh.13,068,546, described as other debtors and prepayments and Ksh.16,410,340 being agency account reflected in the trial balance.

Submission from the Accounting Officer

1506) This was as a result of cumulative incompleteness of year end closing procedures and that remained outstanding from prior periods the same has been corrected in conjunction with technical support from the National Treasury's IFMIS and accounting services directorates with whom the State department was able to drilldown the incomplete procedures and un-cleared effects outstanding in the system for the periods to date. The same has now been fully completed and reconciled resulting in the system reflecting the figures as supported in the financial statements. Going forward the state department has embarked on a comprehensive training and capacity building programme in order to ensure the State departments staff are fully sensitized on the requisite year end closing procedures and IFMIS Trial balance reconciliation processes to ensure such errors do not recur in future.

Committee Observations and Findings

1507) The Committee observed and found that:

1) The variance has since been reconciled and the balances tied with the figures in the IFIMIS; and
2) The Accounting Officer satisfactorily explained the matter and therefore, the Committee resolved the matter.

461.3 Government Imprests

1508) The Government Imprest balance of Ksh.1,731,087 as at 30 June, 2018 was at variance with the trial balance figure of (Ksh.1,798,211) resulting to unexplained and unreconciled difference of Ksh.3,529,298. In the circumstance, the correctness and accuracy of accounts receivables balance of Ksh.1, 643,354,782 as at 30 June, 2018 could not be ascertained.

Submission from the Accounting Officer

1509) The Accounting Officer submitted that this was as a result of cumulative incompleteness of year end closing procedures that remained outstanding from prior periods. The same has been corrected in conjunction with technical support from the National Treasury's IFMIS and accounting services directorates with whom the State department was able to drilldown the incomplete procedures and un-cleared effects outstanding in the system for the periods to date. The same has now been fully completed and reconciled resulting in the system reflecting the figures as supported in the financial statements. Going forward the state department has embarked on a comprehensive training and capacity building programme in order to ensure the State departments staff are fully sensitized on the requisite year end closing procedures and IFMIS Trial balance reconciliation processes to ensure such errors do not recur in future. In addition the imprest outstanding totaling Ksh.1, 731,087 have since been surrendered.

Committee Observations and Findings

1510) The Committee observed and found that:

1) The variance has since been reconciled and the balances tied with the figures in the IFIMIS;
2) The imprest outstanding totaling Ksh.1, 731,087 have since been surrendered; and

3) The Accounting Officer satisfactorily explained the matter and therefore, the Committee resolved the matter.

462. Accounts Payables – Deposits and Retention

1511) The statement of assets and liabilities shows accounts payables balance of Ksh.212, 555,241 which is disclosed under note 13 as deposits. The supporting schedule for the same was not availed for audit verification. Further, the above figure was at variance from the trial balance figure of Ksh.1, 605,943,329 reflected in the trial balance by unexplained difference of Ksh.1, 393,388,088. Consequently, the validity and accuracy of the balance for payables of Ksh.212, 555,241 as at 30 June 2018 could not be confirmed.

Submission from the Accounting Officer

1512) The Accounting Officer admitted that the above difference arose as a result of a backlog of prior period auto-reconciliation process that remained unreconciled in the IFMIS. The State department has engaged technical support from the National Treasury's Accounting Services and IFMIS directorates in order to resolve these outstanding issues. Through the guidance and support of the team the Auto-reconciliation processes have been brought up to date resulting in the resolution of these long outstanding unreconciled items. The balances reported as per the Financial Statements now tie with the figures in the IFMIS. The analysis of the same was provided to the Committee.

Committee Observations and Findings

1513) The Committee observed and found that:

1) The supporting documents have since been availed and verified; and
2) The Accounting Officer satisfactorily explained the matter and therefore, the Committee resolved the matter.

463. Pending Bills

1514) Note 17 to the financial statements reflect pending bills for the year amounting to Ksh.22, 888,397 as at 30 June 2018. Had the pending bills been paid during the year, the surplus reported of Ksh.1, 009,439,378 would have reduced to Ksh.986, 550,981. Further, the unpaid bills have a negative effect on the budget for 2018/2019 as the same form a first charge.

Submission from the Accounting Officer

1515) The Accounting Officer Submitted that the above was occasioned by lack of exchequer from the National Treasury and Rationalization of budget; however, the pending bills have since been paid.

Committee Observations and Findings

1516) The Committee observed and found that:

1) The pending bills have since been paid; and
2) The Accounting Officer satisfactorily explained the matter and therefore, the Committee resolved the matter.

1517) The Committee observed that paragraph 464 and 465 were considered by the Committee in 2016/2017 and a recommendation made therein; and The Committee observed that Paragraph 466 to 468 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and found as satisfactory.

1518) The Committee observed that the paragraph 469 falls under the purview of Public Investment Committee. Also, the Committee observed that there were no other material issues relating to effectiveness of internal controls, risk management and governance.

1519) The Committee observed that Paragraph 470 to 540 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and the submission by the Accounting Officer was satisfactory to the Committee.

MOMBASA – NAIROBI – ADDIS ABABA ROAD CORRIDOR DEVELOPMENT PROJECT NO.P-ZI-DBO-018 (ISIOLO – MERILLE ROAD SECTION)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

541. Project's closure of Bank Account

1520) As reported in the previous year, the project was substantially completed on 16 July 2010. The defects liability period was from 16 July 2012. After defects liability period, the project was handed over to the employer on 2 May 2014. However, although the project's bank account in the name of Ministry of Roads and Public Works was closed and the cash balance of Ksh.16,682,650 transferred by the parent Ministry to Kenya National Highways Authority on 16 October 2014, the funds were not remitted to the National Treasury. Further, as reported in the previous year, the financial statements submitted for the year ended 30 June 2015 reflected an expenditure of Ksh.6,007,057.24 incurred in 2013/2014, which has not been adequately supported.

Committee Observations and Findings

1521) The Committee observed and found that:

1) The stated issues remained unresolved as at 30 June 2018;
2) The financial statements submitted for the year ended 30 June 2015 reflected an expenditure of Ksh.6,007,057.24 incurred in 2013/2014, which has not been adequately supported.

Committee Recommendation

1522) The Committee recommended that:

The Accounting Officer should within three (3) months of tabling and adoption of this report, ensure that adequate supporting documents are submitted to the Auditor-General for review and subsequent reporting in the next audit cycle.

1523) The Committee observed that Paragraph 542 to 550 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and the submission by the Accounting Officer was satisfactory to the Committee**.**

551. Rehabilitation of Eldored-Turbo-Webuye-Malaba Road (A104)-Contract No. KeNHA/ICB/51/2010

1524) As reported in the previous year, the contract was awarded to a contractor on 19 November, 2010 at a contract sum of Ksh.3,383,387,115 while the contract Agreement was signed on 26 November, 2010. The contractor commenced work on 26 January, 2011 and the contract duration was 18 months. However, the contract was not completed within the stipulated time and the contractor was awarded two extensions under claim 1 and 2 of 45 and 115 days respectively. However, the contract sum was revised upwards by Ksh.2,005,552,882 or 59.3percent to Ksh.5,388,939,997 through addendum No. 1 dated 20 June 2014 and the completion date extended to 31 October, 2015. A review of the project revealed that the works were substantially completed on 15 March 2016.

1525) However, there is no evidence that the Authority charged liquidated damages to the contractor for working outside the contract period from 31 October, 2015 to 15 March, 2016. Further, an expenditure of Ksh.22,337,536 has been incurred to pay interest on delayed payments which is a nugatory expenditure. A review of the matter in the year under review shows that the matter remains unresolved.

Submission by Accounting Officer

Committee Observations and Findings

1526) The Committee observed and found that:

1) The contract sum was revised upwards by Ksh.2,005,552,882 or 59.3percent to Ksh.5,388,939,997 through addendum No. 1 dated 20 June 2014 and the completion date extended to 31 October, 2015;
2) There is no evidence that the Authority charged liquidated damages of (provide the amount) to the contractor for working outside the contract period from 31 October, 2015 to 15 March, 2016; and
3) An expenditure of Ksh.22,337,536 has been incurred to pay interest on delayed payments, which is a nugatory expenditure.

Committee Recommendation

1527) The Committee recommended that:

The Accounting Officer, should within three (3) of tabling and adoption of this report, submit to the Auditor-General evidence showing that the authority charged liquidated damages to the contractor and how the damages realized were utilized to off-set the nugatory expenditure of Ksh.22,337,536.

552. Rehabilitation of Webuye-Malaba (A104) Road- Contract No. KeNHA/ICB/52/2010

1528) As reported in the previous years, the contract was awarded to a contractor on 19 November 2010 at a contract sum of Ksh.3,848,928,516 while the contract Agreement was signed on 26 November 2010. The contractor commenced work on 26 January, 2011 under a contract duration of 18 Months with an expected completion date of 31 August, 2012. However, the contract was not completed within the stipulated time and the contractor was awarded two extensions of time totaling 12.5 months. Further, the contract sum was revised upwards by Ksh.2,106,120,003 or 55percent to Ksh.5,955,048,519 through addendum No. 1 dated 23 July 2014 and the completion date was extended by 12 months to 13 August, 2015.

1529) A review of the project has revealed that as at July 2016 the progress of work stood at 99.12percent against period that lapsed on 13 August, 2015. However, there was no evidence that the Authority charged liquidated damages to the contractor for working outside the contract period. Further, an expenditure of Ksh.45,336,029 has been incurred to pay interest on delayed payments which is a nugatory expenditure. Further review of the issues in the year under audit shows that the matter remains unresolved.

Committee Observations and Findings

1530) The Committee observed and found that:

1) The contract sum was revised upwards by Ksh.2,106,120,003 or 55percent to Ksh.5,955,048,519 through addendum No. 1 dated 23 July 2014 and the completion date was extended by 12 months to 13 August, 2015;
2) There was no evidence that the Authority charged liquidated damages to the contractor for working outside the contract period; and
3) An expenditure of Ksh.45,336,029 has been incurred to pay interest on delayed payments, which is a nugatory expenditure.

Committee Recommendation

1531) The Committee recommended that:

The Accounting Officer, should within three (3) of tabling and adoption of this report, submit to the Auditor-General evidence showing that the authority charged liquidated damages to the contractor and how the damages realized were utilized to off-set the nugatory expenditure of Ksh.45,336,029.

1532) <u>The Committee observed that Paragraph 553 to 554 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and the submission by the Accounting Officer was found satisfactory.</u>

17.0. STATE DEPARTMENT OF TRANSPORT

FINANCIAL STATEMENTS FOR VOTE 1092

Mr. Solomon Kitungu, the Principal Secretary and Accounting Officer for the State Department of Transport (Vote 1092) appeared before the Committee on 6 July 2020 to adduce evidence on the Audited Financial Statements for the State Department of Transport (Vote 1092) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). The following officials accompanied him:

1. Ms. Priscilla Karanja - Head of Accounting Unit
2. Mr. Nyawara N. Saul - Principal Finance Officer

Basis for Adverse Opinion

555. Inaccuracies in the Financial Statements

555.1 Cash and Bank Balances

1533) The statement of assets and liabilities as at 30th June, 2018 reflect bank balances amounting to KSh.69,256,067.00 for the four bank accounts maintained by Department and nil cash in hand as shown under note 22 A and 22B of the notes to the financial statements. However, the revised Trial Balance for the year reflects debit balance for development account of KSh.124,244,171 and credit balance for recurrent of KSh.195,907,005 and deposit bank KSh.122,300,570 (credit). It further shows cash in hand debit balance of KSh.13,984,777,707.80 and credit balance of KSh.10,749,887,363.00. Management has not reconciled the variances shown above and therefore the accuracy and correctness of cash and cash equivalents balance of KSh.69,256,067.00 as at 30 June 2018 cannot be confirmed.

Submission by the Accounting Officer

1534) The Accounting Officer submitted that it was true that the statement of assets and liabilities as at 30 June 2018 reflected bank balances amounting to KSh.69,256,067, for the four bank accounts of the Department and nil cash in hand as shown under note 22A and 22B of the financial statements. Whereas the trial balance for the year reflect a debit balance for development account of KSh.124,244,171 and credit balance for recurrent of KSh.195,907,005, deposit bank KSh.122,300,570 (credit) cash in hand debit balance of KSh.13,984,777,707.80 and credit balance of KSh.10,749,887,363.00.These differences arose from the fact that the IFMIS ledger had not been updated due to errors brought forward from prior years. These errors were occasioned by challenges in posting of end year transactions for the prior years. An IFMIS reconciliation from the financial year 2014-2015 was been undertaken and a revised trial balance for 2017-2018 was available which was in agreement with the figures in the financial statements.

Committee Observations and Findings

1535) The Committee observed and found that:

1) The IFMIS reconciliation from the financial year 2014-2015 had been done and a revised trial balance for 2017-2018 which was in agreement with the figures in the

financial statements was available; and

2) The Accounting Officer provided a satisfactory explanation on the matter and therefore the Committee considered the matter resolved.

Committee Recommendation

1536) The Committee recommended that:

The matter be resolved.

555.2 Outstanding Imprests

1537) The statement of assets and liabilities as at 30 June 2018 shows nil balance for outstanding imprests while the Trial Balance shows Government imprests credit balance of KSh.16,519,588.45. As such, it has not been possible to confirm the correct balance of the outstanding imprests and whether adequate imprest controls are in place.

Submission by the Accounting Officer

1538) The Accounting Officer submitted that it was true that at the time of submitting revised financial statements as at June 30 2018 the revised Trial balance reflected Government imprest credit balance of Ksh.16,519,588.45. The credit balance of Ksh.16,519,588.45 was an accumulation of errors of duplication of imprest surrenders over time which has now been corrected as per the revised trial balance**.**

Committee Observations and Findings

1539) The Committee observed and found that:

1) The credit balance of Ksh.16,519,588.45 which was an accumulation of errors of duplication of imprest surrenders over time had been corrected and the trial balance revised; and
2) The Accounting Officer provided a satisfactory explanation on the matter; and
3) The Committee considered the matter resolved.

Committee Recommendation

1540) The Committee recommended that:

The matter be resolved.

555.3 Accounts Payables-Deposits and Retention

1541) The statement of assets and liabilities shows financial liabilities of KSh.51,759,681.00 while the Trial Balance as at the same date shows general deposits of KSh.365,045,006.15. The variance of KSh.313,285,325.15 has not been explained of reconciled.

Submission by the Accounting Officer

1542) The Accounting Officer submitted that it was true the statement of assets and liabilities shows financial liabilities of KSh.51,759,681, while Trial balance shows general deposits of Ksh.365,045,006.15. The Ksh.365,045,006.15 indicates cumulative expenditures on the general deposits account without corresponding receipts under general deposit being captured in IFMIS. The receipts have since been captured and the net effect under deposit account is KSh.51,759,681 as reflected in the revised trial balance.

Committee Observations and Findings

1543) The Committee observed and found that:

1) The credit balance of Ksh.16,519,588.45 which was an accumulation of errors of duplication of imprest surrenders over time had been corrected and the trial balance revised; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore the Committee considered the matter resolved.

Committee Recommendation

1544) The Committee recommended that:

The matter be resolved.

555.4 Other Inaccuracies between Trial Balance and Financial Statements

1545) Further comparison between the financial statements and the supporting Trial Balance revealed total positive variances of KSh.40,895,171,367.70 and negative variances totaling KSh.9,755,392,435.30 all of which were not explained or reconciled. In the circumstances, the accuracy and correctness of the Departments' financial statements for the year ended 30 June 2018 could not therefore be confirmed.

Submission by the Accounting Officer

1546) The Accounting Officer submitted that it was true that the revised financial statement and the supporting Trial balance revealed total positive variances of Ksh.40,895,171,367.70 and negative variances totaling KSh.9,755,392,435.30. The reconciliations/explanations have been analyzed below

555.4.1 Positive Variances of Ksh.40,895,171,367.70

The positive variance of KSh.40,895,171,367.70 constitutes the following errors which have now been corrected in the revised financial statements.

(a) Use of goods and services KSh.96,999.60

1547) This was a transposition error in the preparation of the final word document, which has now been corrected accordingly. The specific areas under use of goods and services that have been adjusted are:

No	Description	Audited Amount (B)	Restated Amount (A)	Variance (A-B)
(i)	**Rentals of produced assets**	**4,777,368**	**4,843,368**	**66,000**
(ii)	**Hospitality, supplies**	**1,359,692**	**1,360,692**	**1,000**

	and services			
(iii)	**Other operating expenses**	**29,457,397**	**29,487,396**	**29,999.60**
				96,999.60

(b) Debtors and Advances – employees KSh.327,769.65

1548) A salary advance of KSh.240,540 had been created but remained unpaid. This has subsequently been cancelled. Salary deduction of KSh.87,229.65 had been charged from this item without creating the necessary journals. This has since been corrected.

(c) Salary deductions KSh.8,000

1549) As reported in the 2016/2017 financial year responses, this error was caused by directly charging the salary account (economic item 2110101), instead of charging court attachments (economic item 7320110). The error has since been rectified vide Journal Entry 20340635**.**

(d) General Provision Ksh.53,450

1550) An imprest of KSh.25,200 (warrant No. 2326223) and a salary advance of KSh.28,250 (Josephine Gucuku Njeru) were wrongly charged in the prepayment (economic item 9910101) account instead of imprest item (6760103) and salary advances item (6740101). This error has since been corrected vide Journal Entry 20386623.

(e) Exchequer provisions KSh.40,894,685,148.45

1551) The exchequer provisions in the trial balance are carried cumulatively.
The trial balance reflects cumulative exchequer receipts for the financial year 2017/2018 at KSh.54,750,482,445.45 The positive variance of KSh.40,894,685,148.45 represents the cumulative exchequer receipts for the financial year 2016/2017. KSh13,855,797,297 are exchequer issues for the year 2017/2018, which is the net of cumulative receipts for the financial year 2017/2018 and the cumulative receipts for the year 2016/2017.

555.4.2 Credit Variance KSh.9,755,392,435.30

1552) The negative variance of KSh.9,755,392,435.30 constitutes the following errors which have now been corrected in the revised financial statements.

(i) **Domestic travel and subsistence and other transportation costs KSh.637,673**

1553) This was a transposition error in the preparation of the final word document which has now been corrected accordingly. The specific area under use of goods and services that have been adjusted is;

No	**Description**	**Reported Amount (B)**	**Restated Amount (A)**	**Variance (A-B)**
(i)	Domestic Travel & Subsistence and other transportation costs	11,598,273	10,960,600	(637,673)

(ii) **Exchange rate loss KSh.540,672**

1554) This was a transposition error in the preparation of the word document where it was supposed to be under fuel, oil and lubricants and not exchange rate loss which has now been corrected in the revised financial statements.

(iii) **Other liabilities Ksh.5,628,087.10**

1555) As reported in the 2016/2017 financial year responses, these were salary deductions paid from item 732000 yet the Salary Journal had not been posted in the General Ledger. The posting has now been effected vide Journal Entries**-** Appendix IV

(iv) **Other debtors and Prepayments KSh.26,728,772.90**

1556) Included in the above figure is KSh.25,552,996.90 representing refer to drawer cheques. The balance of Ksh.1,175,776 represents Imprest surrenders wrongly charged.

(v) **Salary Deductions KSh.127,880,362.05**

1557) As reported in the 2016/2017 financial year responses these were salary deductions paid from item 732000 yet the Salary Journal had not been posted in the General Ledger. The posting has now been effected vide Journal Entries.

(vi) **Other General Liabilities KSh.1,316,559**

1558) As reported in the 2016/2017 financial year responses this was retention monies erroneously deducted from a Consultant. This error has now been reversed vide journal entry.

(vii) **Withholding Taxes KSh.184,052,827.60**

1559) These taxes relate to unpaid and cancelled payments, but the taxes had not been cancelled as well. This process has now been completed and the taxes cleared from the system.

(viii) **System Required Liabilities KSh.9,408,607,481.50**

1560) These systems required liabilities have now been cleared after the completion of Auto Bank Reconciliation as per the revised trial balance. Most of the foregoing issues had been occasioned by challenges faced in the IFMIS auto reconciliation in cash management module. These issues have been sorted through technical assistance from the national treasury, going forward the Accounting Officer is able to do monthly auto reconciliations and hence the IFMIS ledgers are updated accordingly.

Committee Observations and Findings

1561) The Committee observed and found that:

1) The financial statements and the supporting Trial Balance had been revised and errors corrected to confirm the accuracy and correctness of the Departments' financial statements for the year ended 30 June 2018; and
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore the Committee considered the matter resolved.

Committee Recommendation

1562) The Committee recommended that:

The matter be resolved.

556. Budgetary Controls and Pending Bills

556.1 Under Utilization

1563) The financial statements for the year ended 30 June 2018 include a summary of appropriation; recurrent and development combined which reflects an expenditure of KSh.100,029,423,714.10 against the budget of KSh.112,449,931,343 thus resulting in an under-expenditure of KSh.12,429,507,628.90 i.e. 11% under-utilization and no satisfactory explanation was provided. Further, analysis of pending accounts payables reflected pending bills amounting to Ksh.95,458,485 as at 30 June 2018. Had the bills been paid, the State Department could have reported deficit of KSh.77,962,099 instead of the surplus of Ksh.17,496,386 now shown. The pending bills have an effect on the budget for 2018/2019 as the bills form first charge to the budget.

Submission by the Accounting Officer

1564) The Accounting Officer submitted that it was true that combined summary of appropriation; recurrent and development for the period ended 30th June 2018 reflects an expenditure of KSh.100,092,423,714.10 against a budget of KSh.112,448,931,343 resulting to an under-expenditure of KSh.12,419,507,628.90 i.e. (11%).

1565) The under-utilization of 11% was caused by lack of exchequer issues at the closure of the Financial Year. The total expected exchequer receipts were KSh.18,804,931,343 but the actual receipts for both recurrent and development combined was KSh.13,855,797,297 resulting to a shortfall of KSh.4,949,134,046. In addition, the underutilization was also occasioned by delayed release of funds to the Railway Development Levy Fund, which was caused by land acquisition challenges and stalemates. The Accounting Officer submitted that it was also true that analysis of pending accounts payable reflected pending bills amounting to KSh.95,458,484.60 as at 30 June, 2018. These bills have since been paid as per the recommendation of the pending bills committee.

Committee Observations and Findings

1566) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to underutilization of the Budget was satisfactory;
2) The the pending bills had been paid and settled fully; and
3) The Accounting Officer provided a satisfactory explanation on the matter and therefore the Committee considered the matter resolved.

Committee Recommendation

1567) The Committee recommended that:

The matter be resolved.

557. Kenya Transport Sector Support Project-MOT Component

557.1 Special Account Reconciliation

1568) The statement of Receipts and payments for the period ended 30 June 2018 reflected receipts from external development partners controlled by the entity amounting to KSh.55,558,563.00 while the Special Account Statement prepared by the National Treasury reflected KSh.15,529,981.62. The variance of KSh.40,028,581.38 had not been reconciled or explained.

Submission by the Accounting Officer

1569) The Accounting Officer submitted that it was true that statement of receipts and payments for the project reflected receipts from external development partners of KSh.55,558,563 while the special account statement prepared by The National Treasury reflected KSh.15,529,981.62 resulting to a variance of KSh.40,028,581.38. This variance represents a Project Component being implemented by Kenya Civil Airport Authority (KCAA) whose transfer was made to KCAA in the Financial Year 2018/2019.

Committee Observations and Findings

1570) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to variance of KSh.40,028,581.38 was satisfactory.
2) The Accounting Officer provided a satisfactory explanation on the matter and therefore the Committee considered the matter resolved.

Committee Recommendation

1571) The Committee recommended that:

The matter be resolved.

Other Matter

558. Prior Year Unresolved Matter

558.1 Financial Statements inaccuracies

558.1.1 Variances between Trial Balance and Financial Statements

558.1.1.1 As reported in the previous year a comparison between the financial statements and the supporting trial balance revealed total positive variances of KSh.238,120,816 and negative variances totaling to KSh.295,288,337,930 which were not explained or reconciled.

Submission by the Accounting Officer

1572) The Accounting Officer submitted as follows:

i. Positive variance KSh.238,120,816

1573) The Accounting Officer submitted that it was true that a comparison between the financial statements and the supporting trial balance revealed a total positive variance of KSh.238,120.816.00. KSh.184,052,828.00 relates to system related errors and KSh.54,067,987.75 relate to accounting errors. We confirm that the system related errors of Ksh.184,052,828 have been resolved as per the revised Trial Balance. The amount of KSh.54,067,987.45 relating to the Accounting Errors has been corrected and adjusted as analyzed below: -

(a) Compensations of Employees KSh.32,400.00

1574) This variance resulted from an imprest surrender (warrant No.2326238 & PV No.002588) which was erroneously charged on salary item instead of the correct charge account. The error has now been corrected vide Journal Entry number 21636165**.** Appendix VIII (a)

(b) Overhaul of vehicles, other transport equipment KSh.233,944.00

1575) The figure of KSh.233,944 was a transposition error in the Financial statements under 'Purchase of Motor Vehicles and other Transport Equipment instead of 'Overhaul of Motor Vehicles and other Transport equipment now corrected.

(c) Purchase of specialized equipment and machinery KSh.338,320

1576) The figure of KSh.338,320 was a transposition error which has now been corrected under Acquisition of Assets.

(d) Salary deductions KSh.8,000.00

1577) This was caused by directly charging the salary account (economic item 2110101) instead of charging court attachments (economic 7320110). The error has since been rectified vide Journal Entry Number 20340635**.**

(e) Salary Advance KSh.660,287.75

1578) The amount of KSh.660,287.75 were various payments of salary deductions for the financial year 2015/2016 that were erroneously charged to the salary advance item (6710103) instead of their respective salary deductions item (7320000). These errors have now been corrected by Journalizing from the Salary Advance item to the Salary expenditure item. Journal Number 20189946 and 8447652.

(f) Temporary imprests KSh.1,591,042.00

1579) The Trial Balance reflects an outstanding imprest of KSh.1,591,042 which had been surrendered manually but the process of surrendering them in IFMIS had not been completed. This has now been done and the imprests are fully surrendered in IFMIS. (Schedule of surrender payment vouchers.

(g) Other Grants and Transfers KSh.50,000.00

1580) This variance arose from wrongly capturing the surrender of an imprest PV No.002980. The correction has been done vide a Journal Entry No.21631907.

(h) Printing, Advertising, Information, Supplies Services KSh.148,000.00

1581) This was caused by the surrender of two imprests No.2520999 – KSh.64,000 and No.232677 – KSh.84,000 that were wrongly captured. The attached Journal Entry No.21634838 and 21635059 have reversed the Error.

(i) Other Operating Expenses KSh.71,000

1582) Surrender of Imprest warrant No.2326204 was erroneously captured but the error was reversed vide Journal Entry No.21631907**.**

(j) Suspense and Clearance KSh.14,078,691.00

1583) Included in the KSh.14,078,691.00 is KSh.6,922,155.50 relating to AIE's issued to Government Clearing Agency, Mombasa. Journals relating to the same were posted in the IFMIS System but were not fully processed and showed an error (failed) during our reconciliation. This figure of KSh.6,922,155.50 has since been fully processed. The balance of KSh.7,156,535 relates to IFMIS "Returned to Drawer" payments made from the "Stale Cheques" item 6780105 without a corresponding receipt being captured in the IFMIS. This has been corrected vide Journal Entry No.18773573.

(k) Other Debtors and Pre-Payments KSh.36,856,303

1584) These were payments made out of the IFMIS "Returned Cheques" item 6740102. However, the returned cheques had not been received in IFMIS at the time of paying them. The error has been corrected vide Journal Entry 18829473.

ii. Negative variances of KSh.295,288,337,950

1585) The Accounting Officer submitted that it was true that a comparison between the financial statements and the trial balance revealed a total negative variance of KSh.295,288,337,950. These errors related to both system and accounting errors of KSh.6,159,164,340.00 and KSh.289,129,173,610.00, respectively. KSh.6,159,164,340.00 relating to system errors has been resolved as per the revised Trial Balance whereas KSh.289,109,408,507 relating to the accounting errors have been corrected as analyzed below and supported by the attached schedule.

a) Proceeds from foreign borrowing KSh.108,969,578,173.

1586) This amount constituted the Journal Entries passed to capture the Direct Payments.

b) Railway Development Levy Fund (RDLF) grants KSh.23,299,550,338.00

1587) These are receipts under the item "Receipt Not Classified Elsewhere Classified". This being the RDLF funds received.

c) Transfer to other Government units KSh.48,496,199,567.

1588) This figure reflects the Transfer to other Government units under Development.

d) Acquisition of Assets KSh. 95,115,515,065

1589) As reported in Note 18 of the Financial Statement, this figure reflects Acquisition of Assets.

e) Exchequer Provision KSh.12,804,984,343

1590) This was the Exchequer issues for the year which was tabulated**.**

f) Printing, Advertising, Information, Supplies Services KSh.148,000.00

1591) This was caused by the surrender of two imprests No.2520999 – KSh.64,000 and No.232677 – KSh.84,000 that were wrongly captured. The attached Journal Entry No.21634838 and 21635059 have reversed the Error**.**

g) Other Operating Expenses KSh.71,000

1592) Surrender of Imprest warrant No.2326204 was erroneously captured but the error was reversed vide Journal Entry No.21631907**.**

h) Compensations of Employees KSh.32,400.00

1593) This variance resulted from an imprest surrender (warrant No.2326238 & PV No.002588) which was erroneously charged on salary item instead of the correct charge account.

i) Suspense and Clearance Account KSh.288,504,593

1594) KSh.288,504,593 relates to Payment Vouchers No.000340 of KSh.186,943,680 and Payment vouchers 008407 of KSh.100,000,000 which had been erroneously charged under this account. These payments were subsequently paid out of the appropriate account i.e. Acquisition of Assets.

j) Salary Deductions KSh.127,880,382 and other liabilities of KSh.5,628,087.

1595) These were salary deductions paid from item 732000 yet the Salary Journal had not been posted in the General Ledger. The posting has now been effected. Journal Entry was attached.

k) Other General Liabilities KSh.1,316,559

1596) This was retention monies erroneously deducted from a Consultant now reversed. Journal Entry was attached.

558.1.1.2 In addition, the Trial Balance reflected credit balance of Ksh.14,078,691 and debit balance of Ksh.288,504,593 both described as suspense clearance account which were not investigated. The accuracy of the Department's financial statements for the year ended 30 June 2017 could therefore not be confirmed.

Submission by the Accounting Officer

1597) The Accounting Officer submitted that included in the KSh.14,078,691.00 is KSh.6,922,155.50 relating to AIE's issued to Government Clearing Agency, Mombasa. Journals relating to the same were posted in the IFMIS System but were not fully processed and showed an error (failed) during our reconciliation, this figure of KSh.6,922,155.50 has since been fully processed.

1598) The balance of KSh.7,156,535 relates to IFMIS "Returned to Drawer" payments made from the "Stale Cheques" item 6780105 without a corresponding receipt being captured in the IFMIS. This has been corrected vide Journal Entry No.18773573. KSh.288,504,393 relates to Payment Vouchers No.000340 of KSh.186,943,680 and Payment vouchers 008407 of KSh.100,000,000 which had been erroneously charged under this account. These payments were subsequently paid out of the appropriate account i.e. Acquisition of Assets.

<u>This matter was considered by the Committee in the report of 2016/2017</u>.

558.2 Variance between the Financial Statements and IFMIS Generated Report

1599) The financial statements submitted for audit also differed from IFMIS generated financial statements as shown below:

Details	**Financial Statements KSh.**	**IFMIS Reports KSh.**	**Difference KSh**
Financial Assets	77,053,284	43,881,666,298	-43,804,613,014
Financial Liabilities	52,540,895	35,528,277,814	-35,475,736,919
Opening Fund Balances	427,982,411	8,328,876,093	-7,900,893,682

The above differences between these two sets of records were not explained.

Submission by the Accounting Officer

1600) The Accounting Officer submitted that it was true that the two sets of records had variances, however reconciliation has been concluded and the revised Trial Balance reflects the actual position as at June 2017.
This matter was considered by the Committee in the report of 2016/2017.

559. Budgetary Control

559.1 As reported in the previous year, the financial statements for the year ended 30 June 2017 included a summary of appropriation; recurrent and development combined which reflected an expenditure of KSh.145,111,654,945 against the budget of KSh.169,130,621,133 thus resulting in an under-expenditure of KSh.24,018,966,188 i.e 14% under-utilization and no satisfactory explanation was provided.

Submission by the Accounting Officer

1601) The Accounting Officer submitted that it was true that there was an underutilization of 14% which is made up of following items: -

i. Exchequer releases 74% - the underutilization was occasioned by the late reallocation of funds from LAPSSET towards the closure of the financial year when it was too late to fully utilize the funds.
ii. Proceeds from Sale of Assets 0% - No Asset was sold during the year.
iii. Other Receipts 61% - the implementation of SGR Phase I was behind schedule; caused by delay in NEMA approvals due to litigation and other Land Acquisition issues along the corridor.
iv. Use of goods and services 79% - caused by delays in procurement processes.
v. Transfers to Other Government Units 89%: - this was occasioned by the late reallocation of the KSh.3 Billion from LAPSSET.
vi. Acquisition of Assets 84%: - this was occasioned by the SGR project not proceeding as per the schedule due to problems of land acquisition especially access to the national parks. There was also under expenditure under air transport department, caused by delays in contractual process which slowed the construction of the terminals at JKIA.

This matter was considered by the Committee in the report of 2016/2017.

559.2 Analysis of pending accounts payable reflected pending bills amounting to KSh.6,368,644.47 as at 30 June 2017. Had the bills been paid, the surplus of KSh.24,512,389 would have been reduced to KSh.18,143,745.

Submission by the Accounting Officer

1602) The Accounting Officer submitted that it was true that the Pending Bills reflected amounted to KSh.6,368,644.47 as at 30 June 2017. This was occasioned by the delayed Exchequer release. The pending bills were paid in the subsequent period.

This matter was considered by the Committee in the report of 2016/2017.

1603) The Committee observed that Paragraph 560 and 579 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

18.0. STATE DEPARTMENT FOR MARITIME AND SHIPPING AFFAIRS

FINANCIAL STATEMENTS FOR VOTE 1093

Ms. Nancy Karigithu,, the Principal Secretary and Accounting Officer for the State Department for Maritime and Shipping Affairs (Vote 1093) appeared before the Committee on 30th November 2020 to adduce evidence on the Audited Financial Statements for the State Department for Trade (Vote 1093) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Fredrick Shisia - Secretary Administration
2. Mr. Francis Ominde - Principal Accountant

Basis for Qualified Opinion

580. Inaccuracies in the Financial Statements

1604) The statement of financial assets and liabilities reflect cash and bank balance as Ksh.419,062 while the Integrated Financial Management Information Systems trial balance reflects Ksh.470,225,301 (Ksh.44,360,556 bank balance and Ksh.425,864,745 cash in hand) resulting to unexplained and unreconciled variance of Ksh.469,806,239.

1605) In addition, outstanding imprests amounting to Ksh. 1,944,248 as reflected in the IFMIS trial balance were not included in the statement of financial assets and liabilities as at 30 June 2018. In the circumstances, the accuracy, and completeness of the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

1606) The Accounting Officer submitted that the variance of Ksh.469,806,239.00 between the statement of financial assets and liabilities and the Integral Financial Management Systems (IFMIS) Trail balance relates to automated reconciliation. As at the close of the financial year 2017/2018 our current bank balance was Ksh. 77,062.00 while the deposit bank balance was Ksh.342, 000.00. The two balances is a figure of Ksh. 419,062.00 captured in the statement of financial assets and liabilities as cash and bank balance. Under the same period, the IFMIS trial balance showed Ksh.470,225,301.00 as a total of cash in hand and bank balance. See the table below:

Item	Amount Ksh.
Cash in hand	44,360,556.00
Bank Balance	425,864,745.00
Total	**470,225,301.00**
Variance	**Amount Ksh.**
Balance as per Trial Balance	470,225,062.00
Less – Balance as per Statement	419,062.00
Total	**469,806,239.00**

1607) This is an IFMIS challenge that has been raised to the Director IFMIS vide our letter Ref: No. MOT&I/ACCT/M&S 0006 Vol. 38 dated 29th May, 2019 for ease of reference to ensure the IFMIS Trail Balance and Financial Statements tally.

Outstanding Imprest

1608) The Accounting Officer submitted that it was true that IFMIS Trial Balance reflected an amount of Ksh.1,944,248,00 as outstanding imprest but not included in the statements of Financial Assets and Liabilities.

1609) At the close of the financial year all outstanding imprests had been surrendered physically but due to IFMIS hiccups and challenges the surrenders had not been captured in the IFMIS. This has since been done and there are no outstanding imprests relating to the financial year 2017/2018.

Committee Observations and Findings

1610) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; and
2) The explanation given by the Accounting Officer and the supporting documents availed were satisfactory; and therefore Committee marked the matter resolved.

Committee Recommendation

1611) The Committee recommended that:

The CS for the National Treasury and Planning should within three (3) months of tabling and adoption of this report, issue a written reprimand letter to the Name the Accounting Officer for failing to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the PFM Act 2012.

581. Pending Bills

1612) The Department accumulated pending bills amounting to Ksh. 33,497,702 (Note 13.1) as at 30 June, 2018 which remained unpaid as summarized in Annex I to the financial statements. Had the pending bills been paid during the year, the surplus of Ksh. 77,062 reflected in the statement of receipts and payments would have reduced by the same amount. In addition, the pending bills have a negative impact on the budget for the subsequent year as the bills become a first charge to the budget. Further, no evidence was availed to confirm that Committee appointed by the Accounting Officer in line with best practices authenticated the pending bills.

Submission by the Accounting Officer

1613) The Accounting Officer submitted that it was true that the Department accumulated pending bills amounting to Ksh. 33,497,702.00 as at 30th June 2018. The State Department was unable to settle the pending bills during the financial year due to the austerity measures issued by the National Treasury. The measures issued reduced the approved budget by

Ksh.18,082,641.00. He therefore confirmed that the bills were settled in the financial year 2018/2019 as per the letter Ref. No. MOT&I/M/S/ACCTS/013/65 dated 25th April 2019. Pending bills amounting to Ksh.25,709,708 on non - Access to Government Procurement Opportunities (AGPO) were addressed by the National Treasury through re-allocations. Payments for AGPO Pending Bills were approved pursuant to Article 223 of the Constitution and regularized/paid in the financial year 2018/2019 supplementary estimates as per the letter Ref. No. RES 1093/18/01/ (32) dated 25th October, 2018.

1614) The Accounting Officer informed the Committee that she had noted the concern on the negative impact of the Pending Bills on the budget for the subsequent year. She endeavored to ensure that all goods, services and works are procured during first, second and third quarter to avoid cost implication on the exchequer in the last quarter of the financial year.

1615) The Accounting Officer also confirmed that the Pending Bills were authenticated by the Committee appointed by the Accounting Officer on 6th July, 2018 before they were paid. The Memo appointing the Pending Bills Committee was attached for perusal by the Committee. Further, the Internal Audit verified the Pending Bills and declared all payable vide letter Ref: IAD/MART/) &/2018/ vol.1 (01) dated 26th July, 2018.

Committee Observations and Findings

1616) The Committee observed and found that the pending bills have since been fully paid and settled during the year 2018/2019; and therefore the Committee marked the matter resolved.

Committee Recommendation

1617) The Committee recommended that:

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

1618) The Committee observed that Paragraph 582 to 583 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

19.0. STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FINANCIAL STATEMENTS FOR VOTE 1094

Mr. Charles Hinga Mwaura, the Principal Secretary and Accounting Officer for the State Department of Housing and Urban Development (Vote 1094) appeared before the Committee 28th May, 2020 to adduce evidence on the Audited Financial Statements for the State Department of Housing and Urban Development (Vote 1094) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Ms. Joyce Mutugi - Head of Accounting Unit
2. Ms. Evelyn O. Nyakwara - Chief Finance Officer

584. Inaccuracies in the Financial Statements

584.1 Suspense and Clearance Account

1619) The trial balance as at 30th June, 2018 did not balance as it reflects KSh.101,740,405 described as suspense and clearance account. Management has not investigated/reconciled the balance and it is not possible to confirm the effect the figures may have on the financial statements for the year ended 30th June, 2018.

Submission by the Accounting Officer

1620) The Accounting Officer submitted that it was correct that the trial balance as at 30th June, 2018 did not balance as it reflected KSh.101, 740,405 under suspense account. This amount represented the AIEs which were issued to the Districts and had not been accounted for by the time the financial reports were submitted for audit. The Districts submitted the expenditure returns later and the expenditure for 2017/2018 updated appropriately.

Committee Observations and Findings

1621) The Committee observed and found that:

1) The District Suspense and Clearance Account balance had been reconciled; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1622) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

4) **The matter be resolved.**

584.2 Cash and Cash Equivalents

584.2.1 Recurrent Bank Account

1623) The cash and cash equivalents balance of KSh.307,147,816 as at 30th June, 2018 as shown in the statement of financial assets and liabilities include KSh.7,034,044 being cash held in recurrent bank account. The trial balance has a balance of KSh.697,948,449 resulting to unexplained variance of KSh.690,914,405. Further, the bank confirmation certificate as at 30th June, 2018 had a balance of KSh.38,413,152 while the cash book balance was KSh.7,034,043. Management did not provide bank reconciliation statements for the account.

Submission by the Accounting Officer

1624) The Accounting Officer admitted that the trial balance as at 30th June, 2018 showed a balance of KSh697, 948,449 which differed with the financial statements balance of which showed KSh.307, 147,816 which includes cash held in the cash office of KSh.7,034,043. The difference highlighted of KSh.690,914,405 was as a result of not fully reconciling the total recurrent payments and the total recurrent receipts for the period under review this delay was occasioned by late transmission of bank statements from the IB and IFMIS platforms. The State Department engaged the National Treasury for technical support and as a result the State Department successfully managed to reconcile all pending receipts and corresponding payments as a result eliminating the system required liabilities. Having reconciled all pending receipts and payments, the Recurrent bank balance now reflects the actual position of KSh.7, 034,044 as supported in the financial statements. The same can be seen in the notes to the financial statements which were attached for perusal by the Committee.

1625) The Accounting Officer further admitted that at the time of audit review the State Department had not provided a bank reconciliation statement reconciling the balance as per certificate of balance and the cash book balance. This was as a result of the State Department relying heavily on the IFMIS auto reconciliation process which at the time had challenges and delays providing reports. However, the reconciliation between the two figures i.e. cash book balance and bank certificate has been carried out and is available for review.

1626) The State Department for Housing and Urban Development endeavors to ensure that these records are always available for review during the audit process going forward to avoid such scenarios arising.

Committee Observations and Findings

1627) The Committee observed and found that:

1) The bank reconciliation statements has since been provided and necessary adjustment performed; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1628) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM**

Act, 2012.

3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

584.2.2 Development Bank Account

1629) The cash and cash equivalents balance of KSh.307,147,816 as at 30th June, 2018 as shown in the statement of financial assets and liabilities include KSh.3,703,183 being cash held in development bank account. The trial balance had a balance of KSh.786,532,000 resulting to unexplained variance of KSh.782,828,817. Further, the bank confirmation certificate as at 30th June, 2018 had a balance of KSh.14,944,099 while the cash book balance was KSh.3,703,183. Management did not provide bank reconciliation statements for the account.

Submission by the Accounting Officer

1630) The Accounting Officer admitted that the trial balance as at 30th June, 2018 showed a balance of KSh.786,532,000 which differed with the financial statements which showed KSh.3,703,183 the difference highlighted of KSh.782,828,817was as a result of not fully reconciling the total development payments and the total development receipts for the period under review. This delay was occasioned by late transmission of bank statements from the IB and IFMIS platforms. The State Department has since engaged the National Treasury for technical support and as a result it successfully managed to reconcile all pending receipts and corresponding payments as a result eliminating the system required liabilities.

1631) The Accounting Officer also reported that the Development bank balance now reflects the actual position KSh.3,703,183 as supported in the financial statements the same can be seen in the notes to the financial statements which were attached for perusal by the Committee.

Committee Observations and Findings

1632) The Committee observed and found that:

1) The bank reconciliation statements had been provided ; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1633) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

584.2.3 Deposit Bank Account

1634) The cash and cash equivalents balance of KSh.307,147,816 as at 30thJune, 2018 as shown in the statement of financial assets and liabilities include KSh.296,410,590 being cash held in deposit bank account. The trial balance had a balance of KSh.417, 668,946 resulting to unexplained variance of KSh.121, 258,356 which has not been reconciled.

Submission by the Accounting Officer

1635) The Accounting Officer admitted that the balance deposit bank account balance in the Trial balance and the financial statements had a difference of KSh.121,258,356. This was as a result of the State Department not completing the Auto-reconciliation process as at the time of the audit review. This was mainly caused by delays in receiving bank statements from the Internet banking and IFMIS platforms.

1636) However, the same has been resolved in conjunction with the National Treasury IFMIS directorate. The State Department has successfully managed to fully reconcile the deposit bank account and the reports therefore reflect the correct position as per attached notes to the financial statements. The same was availed for perusal by the Committee.

Committee Observations and Findings

1637) The Committee observed and found that:
1) The Accounting Officer provided bank reconciliation statements for the account; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1638) The Committee recommended that:
1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

584.2.4 Cash in Hand and Cash in Transit

1639) Similarly, the trial balance as at 30thJune, 2018 has a balance of KSh.10, 177,007,503 referred to as cash in hand while in the financial statements only KSh.627 was disclosed. The difference of KSh.10, 177,006,876 was not explained or reconciled.

1640) In addition, the trial balance reflects cash in transit amounting to KSh.9, 971,930,237 which was not supported and the same was completely omitted in the financial statements. In the circumstance, it was not possible to ascertain the completeness and accuracy of the cash and cash equivalents balance of KSh.307,147,816 as at 30thJune, 2018.

Submission by the Accounting Officer

1641) The Accounting Officer submitted that the above was due to receipts that had been captured in the period under review not being remitted a step that is key in the IFMIS receipting process. All the receipts for the period have since been done in the remittance process and thus the cash balance now reflects the correct position of KSh.307,147,816.

1642) In addition, all receipts captured and remitted but pending Auto-reconciliation are aggregated under the Cash in transit item in the IFMIS system thus the total difference indicated of KSh.10,177,006,876 sums up to the total exchequer receipts captured and not reconciled in the period under review the same have now been fully remitted and reconciled after statements were made available from the IB and IFMIS platforms. The cash and cash in transit items now reflect the correct positions as a result of the successful completion of the Auto reconciliation process. The cash and cash equivalent of KSh.307, 147,816 reported in the financial reports was the actual balance that was in the bank accounts held at Central Bank of Kenya as at 30th June, 2018.

Committee Observations and Findings

1643) The Committee observed and found that:

1) The Accounting Officer provided bank reconciliation statements for the account; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1644) The Committee recommended that:

1) **Accounting Officers MUST at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers MUST at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers MUST at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

585. Account Receivables

585.1 District Suspense

1645) The trial balance reflects a balance of KSh.101, 740,405 described as District Suspense which was not included in the financial statements. Management did not provide a supporting schedule to the figure and investigations have not been conducted to find out the cause of the suspense.

Submission by the Accounting Officer

1646) The Accounting Officer admitted that KSh.101, 740,405.00 was not included in the financial report since it was under District suspense account. This amount was later analyzed and incorporated in the financial report. The State Department has since revised the financial report to reflect the correct position**.**

Committee Observations and Findings

1647) The Committee observed and found that:

1) The explanation given Accounting Officer and the support schedule provided were persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1648) The Committee recommended that:

1) **Accounting Officers MUST at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers MUST at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers MUST at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

585.2 Pre-payments

1649) The trial balance had a figure of negative KSh.5,742,838 described as other debtors and pre-payments which had not been explained/analyzed. In addition, the figure was not disclosed in the financial statements.

Submission by the Accounting Officer

1650) The Accounting Officer submitted that the trial balance reflected a credit balance on prepayments amounting to KSh.5,742,838. This was as a result of outstanding imprests for the period being erroneously applied to the prepayments instead of temporary imprests. This resulted in the Trial balance reflecting a huge debit balance on outstanding imprests KSh.14, 079,569 and the resulting credits being reflected as negative prepayments thus leading to the anomaly highlighted in the audit. The same has been corrected and all outstanding imprests for the period fully surrendered and accounted for.

Committee Observations and Findings

1651) The Committee observed and found that:

1) The trial balanced had been corrected and all outstanding imprests for the period fully surrendered and accounted for; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1652) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public**

Audit Act, 2015.

4) **The matter be resolved.**

585.3 Temporary Imprest

1653) Note 12 to the financial statements reflect Government imprests of KSh.2,069,419 while the trial balance reflects KSh.14, 079,569 resulting to unexplained and unreconciled difference of KSh.12,010,150.

Submission by the Accounting Officer

1654) The Accounting Officer submitted that the financial statements reflected outstanding imprests of KSh.2, 069,419 while the trial balance reflects KSh.14, 079,569 resulting to unexplained and unreconciled difference of KSh.12, 010,150.

1655) The difference of KSh.12, 010,150 represents imprests surrendered through vouchers but had not been processed in the IFMIS system to reduce the imprests by the time of submitting the financial reports for audit. The vouchers were later fully processed in the system and the balances in the two records reconciled. The outstanding temporary imprests of KSh.2,069,419 have been surrendered and cleared from the financial reports.

Committee Observations and Findings

1656) The Committee observed and found that:

1) The outstanding temporary imprests of KSh.2,069,419 have been surrendered and cleared from the financial reports; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1657) The Committee recommended that:

Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

586. Transfer to Other Entities

1658) Included under note 7 on transfer to Government entities is an amount of KSh.1,599,992,362 to Civil Servants Housing Scheme while the financial statements reflect KSh.1,088,689,662 resulting to a variance of KSh.511,302,700. The variance of KSh.511,302,700 has been reflected under the same note as transfer to others and no details were provided or availed for audit verification.

Submission by the Accounting Officer

1659) The Accounting Officer admitted that the breakdown of transfers reflected KSh.1,599,992,362 as transfers to the civil servants housing fund while Note 7 reflected a total of KSh.2,186,060,752 indicating KSh.1,088,689,662 as transfer to the Civil Servant Housing Scheme Fund resulting in the variance highlighted of KSh.511,302,700.

1660) The Accounting Officer submitted that the State Department has since analyzed the transfers and KSh.1,088,689,662 attributed to the Civil Servants Housing Scheme Fund and the balance of KSh.686,060,752 transferred to the National Construction Authority. The financial statements have since been amended to reflect the corrected position.

Committee Observations and Findings

1661) The Committee observed and found that:

1) The financial statements had been amended to reflect the corrected position; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1662) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

587. Account Payables-Deposits

1663) The payables balance of KSh.296, 410,591 as at 30thJune, 2018 was at variance with the trial balance figure of KSh.114, 124,090 resulting to unreconciled and unexplained difference of KSh.182, 286,500.

Submission by the Accounting Officer

1664) The Accounting Officer submitted that the payables balance of KSh.296,410,591 as at 30thJune, 2018 was at variance with the trial balance figure of KSh.114,124,090 resulting to unreconciled and unexplained difference of KSh.182,286,500.

1665) The difference of KSh.182,286,500 was contractors' retention monies transferred to the deposit bank account but had not been captured in the system. This anomaly had since been corrected, records reconciled and the ledger updated. Copies of this correction was attached for perusal by the Committee.

Committee Observations and Findings

1666) The Committee observed and found that:

1) The financial statements had been amended to reflect the corrected position; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1667) The Committee Recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

588. Exchequer Release

1668) The Exchequer release of KSh.10,477,169,945 as stated in the statement of receipts and payments was at variance with the trial balance figure of KSh.10,818,621,490 resulting to unexplained and unreconciled difference of KSh.341,451,545. Further, from the documents availed for audit, the Exchequer release during the period under audit added up to KSh.10,150,397,275 giving another variance of KSh.326, 772,670. It was therefore not possible to ascertain the completeness and accuracy of the Exchequer release figure of KSh.10,477,169,945 as stated in the statement of receipts and payments.

Submission by the Accounting Officer

1669) The Accounting Officer submitted that it was correct that the exchequer releases of 2017/2018 financial year amounted to KSh.10,477,169,945. These are the actual receipts which were credited in the bank and received through the system during the financial year. He reported that there was no variance in both records. Copies were attached for perusal by the Committee.

Committee Observations and Findings

1670) The Committee observed and found that:

1) The explanation given by the Accounting Officer to ascertain the completeness and accuracy of the Exchequer release figure of KSh.10,477,169,945 as stated in the statement of receipts and payments was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1671) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records**

and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

4) **The matter be resolved.**

589. Rental Income

1672) The rental income in the statement of receipts and payments was reflected as KSh.156,530,113 while the trial balance reflects nil. No explanations were provided for the variance.

Submission by the Accounting Officer

1673) The Accounting Officer admitted that the statement of receipts and payments reflected rental income of KSh.156,530,113 while the trial balance reflected nil balance. The rental receipts of KSh.156, 530,113 in the Statement of Receipts and Payment have since been received in the system and the ledger updated. Copies were attached for perusal by the Committee.

Committee Observations and Findings

1674) The Committee observed and found that:

1) The rental receipts of KSh.156, 530,113 in the Statement of Receipts and Payment had been received in the system and the ledger updated; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1675) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

590. Pending Bills

1676) The financial statements under other important disclosures reflect pending bills as KSh.873,248,731 as at 30thJune, 2018. Had the pending bills been paid, the reported deficit for the year could have been increased to KSh.886,785,648.

Submission by the Accounting Officer

1677) The Accounting Officer admitted that the financial statements under other important disclosures reflected pending bills of KSh.873,248,731 as at 30th June, 2018 and if paid could have increased the deficit to KSh.886,785,648. These pending bills were committed and funds reserved to pay after delivery of goods and services.

1678) However, during supplementary budget, the budgetary allocation for the State Department was revised downwards disregarding the actual payments and commitments already done thus creating negative balances in both Development and Recurrent Vote. The Accounting Officer attributed the above pending bills to the budget cuts.

1679) That notwithstanding, in the financial year 2018/19 the State Department managed to pay most of the pending bills leaving a balance of KSh.460,889,225 payable to Nyoro Construction Company Limited waiting end of an arbitration process which was underway through the Attorney General.

Committee Observations and Findings

1680) The Committee observed and found that:

1) The arbitration process was underway from the documents submitted from the Attorney General's office; and
2) The matter therefore remained unresolved.

Committee Recommendation

1681) The Committee recommended that:

1) **Within three months of the tabling and adoption of this report, the Attorney General should provide the report on the arbitration process on the pending bills balance of KSh.460,889,225 payable to Nyoro Construction Company Limited with the view to bringing this matter to its logical end.**
2) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills exist, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.**

591. Unresolved Prior Year Matters

591.1 Accounts Receivables-Outstanding Imprests

1682) The statement of assets and liabilities as at 30th June, 2017 reflects financial assets totaling to KSh.710,374,182 out of which KSh.26,260,178 are accounts receivables. Included in the accounts receivable balance of KSh.26,260,178 is an amount of KSh.9,608,578 described as district suspense but no further details were availed, and no investigations had been made as at 31st March, 2018 to establish the details of the same.

1683) Further, the account receivables balance included outstanding imprests totaling KSh.16,651,602 issued to staff between 1st July, 2012 and 30th June, 2017, an indication that some imprests have been outstanding for over 5 years.

Submission by the Accounting Officer

1684) The Accounting Officer submitted that the matter was under Public Accounts Committee deliberations for FY 2016/2017 and remained unresolved.

1685) The Accounting Officer further submitted that the amount of KSh.9,608,578 is related to the A.I.Es which were issued to Districts but the Districts had not submitted the expenditure returns to account for the expenditure. The State Department followed with the Districts to submit the expenditure returns to enable update of records. He reported that all Districts submitted their expenditure returns and District suspense account has since been cleared.

1686) Also, the Accounting Officer admitted that the Account Receivables balance included outstanding impersts totaling KSh.16,651,602 issued to staff as at 30th June, 2017. He reported that all the outstanding imprests were accounted for during the 2018/2019 financial year. Further, the Accounting Officer undertook to ensure that Officers taking imprests surrender the same within seven (7) working days after the activity in line with the regulation.

Committee Observations and Findings

1687) The Committee observed and found that:

1) The outstanding imprests were accounted for during the 2018/2019 financial year; and
2) The Committee marked the matter as resolved.

Committee Recommendation

1688) The Committee recommended that:

The Accounting Officer must at all times ensure that the full imprest amount is recovered from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

1689) With regard to Paragraphs 592 to 594 on Proceeds from Domestic and Foreign Grants, Proceeds from Domestic and Foreign Borrowingsv and Pending Bills, these matters were considered and resolved by the Committee in the report of 2016/2017.

1690) The Committee observed that Paragraph 595 and 596 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

597. Arrears in revenue

1691) The statement of arrears in revenue reflects arrears of property income of KSh.184,600,915 as at 30th June, 2018. Management has not provided any measures being taken to recover the arrears. In the circumstances, the recoverability of the arrears of KSh.184,600,915 as at 30th June, 2018 could not be determined.

Submission by the Accounting Officer

1692) The Accounting Officer submitted that at the time of audit review, the department had not established accounts section. This was later done and books of accounts opened and are well maintained. Remittance of receipts as at 30th June, 2018 had been reconciled with Integrated Personnel and Payroll Database -IPPD by products.

1693) The Accounting Officer reported that the State Department has been updating the housing inventory across the country which also includes follow-up for rent recovery through enhanced facilitation to County Directors of Housing for increased mobility and office efficiency. The State Department has reconciled revenue arrears amounting to KSh.142,553,967.15. However, an outstanding balance of KSh.(42,046,947.89) is yet to be cleared.

1694) The Accounting Officer further reported that the Management has also requested the State Department for Public Service for separation of market rent recovery codes by assigning deferent codes in the IPPD for County Government Houses and the National Government houses.

Committee Observations and Findings

1695) The Committee observed and found that:

1) The previously the Department was under the then Ministry of Lands and Housing and it took long to establish the Accounts section separate from former mother ministry. This later done and books of accounts opened and are well maintained;
2) The Accounting Officer was updating the housing inventory across the country which also includes follow-up for rent recovery through enhanced facilitation to County Directors of Housing for increased mobility and office efficiency. Revenue arrears amounting to KSh.142,553,967.15 have been reconciled from these efforts;
3) The Accounting Officer had requested the State Department for Public Service for separation of market rent recovery codes by assigning deferent codes in the IPPD for County Government Houses and the National Government houses. This exercise was likely to end by March 2021; and
4) The Committee marked the matter as resolved.

Committee Recommendations

1696) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

598. Under-collection of Revenue

1697) The Department had budgeted to collect revenue of KSh.450,000,000 during the period under audit. However, only KSh.156,530,113 or 35% was realized resulting to a shortfall of KSh.293,469,887 or 65% which was not explained.

Submission by the Accounting Officer

1698) The Accounting Officer submitted that during the period under review, the management had many operational revenue accounts that facilitated Ministries Departments and Agencies - MDAs and Semi-Autonomous Government Agencies - SAGAs to do deposits directly without necessarily considering use of one single revenue deposit account. That complicated audit trail of AIA leading to under collection of Revenue.

1699) In view of the above, the department reported a shortfall of revenue collection. As a result, the Accounting Officer asked National Treasury to close all accounts in respect to revenue deposits and the Principal Secretary of the National Treasury had affected the closures through Central Bank of Kenya - CBK letter Ref. CBK/BD/KRA/PMG/18 dated 21st November, 2018. A copy of the letter was attached for perusal by the Committee.

1700) However, one single account was identified for Rent from Government Building & Housing AIA Account 1000396358. The Department has managed to collect and reconcile receipts amounting to KSh.299,084,080.15 and was yet to collect the remaining balance of KSh.150,915,919.85.

Committee Observations and Findings

1701) The Committee observed and found that:

1) The measures put in place by the Accounting Officer cub the under-collection of Revenue had worked as one single account was identified for Rent from Government Building & Housing Appropriation In Aid -AIA Account 1000396358;
2) From the one single account, the Department had managed to collect and reconcile receipts amounting to KSh.299,084,080.15 and was yet to collect the remaining balance of KSh.150,915,919.85; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1702) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public**

Audit Act, 2015.

4) **The matter be resolved.**

1703) With regard to Paragraphs 599 to 600 on Non-maintenance of Books of Accounts and Rdevenue Bank Statement, Rental Income and Under Collection, these matters were considered and resolved by the Committee in the report of 2016/2017.

1704) The Committee observed that Paragraph 601 and 602 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

CIVIL SERVANTS HOUSING SCHEME FUND

603. Cash and Cash Equivalents

1705) Examination of the bank reconciliation statement as at 30thJune, 2018 revealed long outstanding balances in the bank reconciliation totaling to KSh.201,183,649 as receipts in cash book not in bank statement which includes KSh.37,454,290 being receipt which are over one year. Management did not explain why the balances remained outstanding. In addition, the bank reconciliation statement also shows unexplained payments in the bank not in cash book amounting to KSh.31, 553,576. It was not clear and management did not explain why the balances have remained outstanding for long.

1706) Further, the bank reconciliation statement reflects balances of KSh.180, 596,212 being payments in the cash book not in bank which include KSh.16, 911,231 relating to financial year ended 30th June, 2017 and earlier years. Consequently, it was not possible to confirm the accuracy and completeness of cash and cash equivalent balance of KSh.2, 408,632,335 as at 30thJune, 2018.

Submission by the Accounting Officer

1707) The Accounting Officer admitted that the bank reconciliation statement as at 30th June, 2018 revealed long outstanding balances in the bank reconciliation totaling to KSh.201,183,649 as receipt in cash book not in bank statement which include KSh.37,454,290 being receipt which are over one year. However, the Accounting Officer reported that the Department has cleared receipts amounting to KSh.199,569,798.70.

1708) The Accounting Officer further admitted that the bank reconciliation statement also shows unexplained payments in the bank not in cash book amounting to KSh.31, 553,576. However, the Accounting Officer reported that the Department has cleared outstanding payments amounting to KSh.30, 079,374.60

1709) On the bank reconciliation statement reflects of KSh.180,596,212, the Accounting Officer submitted that the State Department has cleared all the outstanding items reflecting as payment in cash book not in the bank. The outstanding balances had been occasioned by lack of adequate personnel in the Accounts Section.

Committee Observations and Findings

1710) The Committee observed and found that:

1) The Committee observed that the Department had cleared all the outstanding items and payments reflecting as payment in cash book not in the bank; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1711) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

Other Matter

1712) With regard to Paragraphs 604 to 605 on Prior year matters of Cash and Cash Equivalents and un-reconciled Cash and Bank Items, these matters were considered and resolved by the Committee in the report of 2016/2017.

1713) The Committee observed that Paragraph 606 and 617 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

DONOR FUNDED PROJECTS

NAIROBI METROPOLITAN SERVICES IMPROVEMENT PROJECT (IDA CREDIT NO.5102-KE)

Other Matter

618. Unsupported Retention Monies

1714) Project Information availed for audit review indicated that the Project had withheld dues from various contractors as part of the Certified Works as Retention Monies totaling to KSh. 752,826,327. However, no evidence of a dedicated bank account into which retention monies were held was availed for audit review. In the circumstances, Management may face difficulties in paying the retention monies as and when the same fall due.

Submission by the Accounting Officer

1715) The Accounting Officer submitted that Government financial regulation direct that all retention monies withheld from the contractors be held in a deposit account in the Ministry under the care and supervision of the respective Accounting Officer in that particular ministry.

1716) In contrast the World Bank disbursement guidelines prohibit any transfer of retention money to any third-party account. The transfer of the retention monies to a third-party account does not amount to disbursement and therefore ineligible expenditure. In such a case the deposit account is a third party who is not in the contract.

1717) The Accounting Officer reported that it is the policy of the World Bank to release retention fund for repayment to contractors upon the Certificate of substantial completion or upon successful defect liability period or both. Therefore, the contractor's retention money is held by the World Bank while the project teams maintain each contractor's withheld retention money records.

1718) Upon successful contractual completion, certified certificates of the retention held are submitted to the bank for payment upon thorough verification. Financial Management Supervision Report of September, 2015 was attached for perusal by the Committee.

Committee Observations and Findings

1719) The Committee observed and found that:

1) The retention monies for contractors in this case was held by the World Bank;
2) It was the policy of the World Bank to release retention fund for repayment to contractors upon the Certificate of substantial completion or upon successful defect liability period or both; and
3) The matter therefore remained unresolved.

Committee Recommendations

1720) The Committee recommended that:

Accounting Officers MUST at all times ensure that all donor funded projects are implemented within the contractual timelines. Completion certificates must be issued on time to ensure all payments including retention monies for Contractors are made upon completion or upon successful defect liability period or both.

619. Unremitted Taxes

1721) The project financial statement discloses pending bills amounting to KSh.1,028,027,047. This balance includes withheld but unremitted taxes totaling to KSh.861,104,138 made up of KSh.564,813,465 Value Added Tax and KSh.296,290,673 withholding taxes. In the circumstances, Management had breached the law and the unremitted taxes may attract penalties from Kenya Revenue Authority.

Submission by the Accounting Officer

1722) The Accounting Officer admitted that the Project Financial Statement disclosed pending bills amounting to KSh.1,028,027,047 as at 30th June 2018. This balance included tax withheld and unremitted amounting to KSh.861,104,138.00 being KSh.564,813,465.50 VAT and KSh.296,290,672.85 Withholding. The Accounting Officer submitted that the above amounts have since been paid.

Committee Observations and Findings

1723) The Committee observed and found that:

1) The Committee observed that the pending bills amounting to KSh.1,028,027,047 included tax withheld and unremitted amounting to KSh.861,104,138.00 being KSh.564,813,465.50 VAT and KSh.296,290,672.85 withholding had been paid; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1724) The Committee recommended that:

1) **The Cabinet Secretary of the National Treasury MUST ensure that any Public Officer, other than a receiver or collector of revenue for the national government, who collects revenue for that national government, delivers the revenue to a receiver or collector of revenue for the national government within three days after receiving it, pursuant to Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The Cabinet Secretary for the National Treasury MUST at all times ensure that a receiver of revenue for the national government provides monthly statements to the National Treasury and the Commission on Revenue Allocation pursuant to section 76 (3) of the Public Finance Management Act 2012.**

1725) The Committee observed that Paragraph 620 and 627 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

KENYA MUNICIPAL PROGRAMME (IDA CREDIT NO. 4714)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

628. Special Account Reconciliation

This matter was considered and resolved by the Committee in the report of 2016/2017

1726) The Committee observed that Paragraph 629 and 630 on compliance with lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

KISUMU URBAN PROJECT (PROJECT ADVANCE ACCOUNT)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

631. Inaccuracies of Financial Statements

631.1 Trial Balance

1727) The financial statements as prepared by the project management were not supported by a trial balance. Consequently, the accuracy of the financial statements could not be confirmed for the year ended 30 June 2018.

Submission by the Accounting Officer

1728) The Accounting Officer submitted that the State Department has since prepared the trial balance as at 30th June, 2018 and submitted the amended financial statements to the Auditors for verification.

Committee Observations and Findings

1729) The Committee observed and found that:

1) The amended financial statement and the trial balance was submitted to the Auditor General and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1730) The Committee recommended that:

The Accounting Officer must at all times ensure that all reconciliations are done and complete financial statements submitted to the Auditor General within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

631.2 Financial Statements Reporting Framework

1731) The review of the financial statements revealed non-compliance with the IPSAS Cash Basis-Reporting Framework as follows:

- Roles and responsibilities did not indicate the key qualifications for the City Manager.
- Summary of overall project performance did not include
  - i. physical progress based on outputs, outcomes and impacts since project commencement, and
  - ii. Comments on value for money achievements.
- The statement of receipts and payments, statement of financial assets and statement of cash flows indicates incorrect notes to the financial statements.

1732) Consequently, the management was in breach of the IPSAS reporting framework.

Submission by the Accounting Officer

1733) The Accounting Officer submitted that he had revised the financial statements to include the key qualifications of the City Manager, Summary project overall performance report which indicates the physical progress based on outputs, outcomes and impacts since commencement of the project and attached correct notes to the financial statements.

Committee Observations and Findings

1734) The Committee observed and found that:

1) The amended financial statements conforming to the IPSAS standards was submitted to the Auditor General and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1735) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that all reconciliations are done and complete financial statements submitted to the Auditor General within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;**
2) **The National Treasury being the custodian/secretariat of the Public Sector Accounting Standards Board should at all times ensure there is complete compliance to the IPSAS standards of reporting issued from time to time by the Board.**

632. Ineligible Payment of Value Added Tax (VAT)

1736) The Kenya Power and Lighting Company limited (KPLC) was paid KSh.8, 407,710 for relocation of service line along Impala-Dunga-Nanga road. The quotation letter from KPLC shows the cost of supply at KSh.7,248,026 and Value Added Tax (VAT) at KSh.1,159,684 totaling to KSh.8,407,710. The gross payment of the amount contravenes the credit agreement requirement that all payments to be tax exempt. Further, the management failed to issue VAT exemption documents to KPLC as laid out in the loan contract agreement resulting in ineligible payment of KSh.1, 159,684.

Submission by the Accounting Officer

1737) The Accounting Officer submitted that KPLC insisted on the gross invoice price being settled first before relocating the power service lines. This led to delays on the commencement of the road project. The management decided to pay the gross invoice cost including VAT in order to ensure that the road contract was not unduly delayed as it sought ways to process tax (VAT) exemption certificate which would form basis for claim of refund from KPLC**.**

Committee Observations and Findings

1738) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to in the ineligible payment of KSh.1, 159,684 was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1739) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

633. Special Accounts Statements

1740) The special account statement reflects Euros 2,336,248 (KSh.272,710,229) as amount withdrawn and not yet claimed as at 30thJune, 2018 whose expenditure returns had not been submitted to National Treasury. Consequently, the regularity of amount withdrawn and not claimed could not be confirmed.

Submission by the Accounting Officer

1741) The Accounting Officer submitted that the Department requested for exchequer on 26th June, 2018, but as at on 30th June, 2018, the National Treasury had not remitted the funds to the State Departemet of Housing and Urban Development. He attached a copy of the request letter to the National Treasury and bank statement for perusal by the Committee.

Committee Observations and Findings

1742) The Committee observed and found that:

1) The National Treasury had not respond cded to the request by the Accounting Officer to remit the funds to the State Departemet of Housing and Urban Development; and
2) The matter therefore remained unresolved.

Committee Recommendations

1743) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that all reconciliations are done and complete financial statements submitted to the Auditor General within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM**

Act, 2012.

4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

634. Irregular Payments

634.1 Lack of Technical Implementation Unit Approval

1744) Included in the statement of receipts and payments under acquisition of nonfinancial assets figure of KSh.238, 422,187 are payments to five (5) contractors amounting to KSh.25, 235,486. The payment relates to construction of primary schools and was made without the technical implementation unit endorsing the payments contrary to Kisumu Urban Project - KUP operations manual.

Submission by the Accounting Officer

1745) The Accounting Officer admitted that payments were made without the endorsement by the Technical Implementation Unit (TIU) as required by clause 4.4 of the KUP operations manual. The payments were however approved by the Technical Assistant Team (TAT) which includes an Architect and Engineer who have been retained to provide technical services to the Project**.**

Committee Observations and Findings

1746) The Committee observed and found that:

1) The payments of KSh.25, 235,486 to five contractors were approved by the Technical Assistant Team (TAT) which includes an Architect and Engineer who have been retained to provide technical services to the Project; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1747) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

634.2 Hire of Specialist Furniture Supplier

1748) Further it was noted that a 50% advance payment of KSh.2, 500,000 was made to each of the five (5) schools' contractors for the supply of school furniture. However, the project consultants through a letter to the City Manager Ref: FC/105/03/17 dated 23rd

October, 2017 proposed to invite a specialist furniture supplier to procure the items for the five schools. It was not clear how the specialist supplier was engaged at such an advanced stage of contract implementation as it contravenes the independence of the contractors and violates the contract agreements and procurement regulations.

Submission by the Accounting Officer

1749) The Accounting Officer submitted that there was no independent contract signed for specialized furniture supplier by the employer as it would contravene the conditions of the existing contract and Public Procurement and Disposal Act.

Committee Observations and Findings

1750) The Committee observed and found that:

1) The contract to supply furniture was a component of the main contract and therefore there was no special contract for supply of the same;
2) The specialized furniture supplier was sub-contracted by the main Contractor as provided for in the Contract document and therefore there was no independent specialised contractor for supply of furniture; and
3) The matter was, therefore, resolved.

Committee Recommendations

1751) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

634.3 Furniture Non – Delivery

1752) Physical verification visits were carried out in the five (5) beneficiary schools to confirm the delivery of school furniture. In Thim-Bonde primary school the contractor only supplied furniture worth KSh.1,708,700 out of the advance payment of KSh.2,500,000 resulting in a shortfall in supply totaling KSh.791,300. In Got-Nyabondo primary school, the contractor supplied furniture amounting to KSh.679,800 out of advance payment of KSh.2,500,000, thus short supply of KSh.1,820,200. Further, there were no inventory records to indicate the value of furniture supplied to Angira, Rota and Rweya primary schools. Consequently, propriety and value for money on the expenditure on furniture amounting to KSh.12,500,000 could not be confirmed.

Submission by the Accounting Officer

1753) The Accounting Officer submitted that the five contractors have now supplied all furniture and the correct valuation has been captured in the subsequent certificates. He attached the delivery notes and schedules for supply of furniture for each school for the Committee to peruse.

Committee Observations and Findings

1754) The Committee observed and found that:

1) The five contractors had supplied all the furniture and the correct valuation had been captured in the subsequent certificates; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1755) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
4) **Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets in a way which ensures that the national government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.**

635. Waste of Funds

1756) Included in the statement of receipts and payments under purchase of goods and services figure of KSh.54,428,209 is a payment cheque No.279 dated 6thJuly, 2017 of KSh.512,800 to an officer for provision of subsistence allowance and transport to four (4) officers from State Department of Housing and Urban Development. The officers were expected to provide technical support, monitoring and evaluation of KUP following financier's approval.

1757) However, it was not explained how the civil servants were paid subsistence and transport for eleven (11) days between 10th and 21stJuly, 2017 while these expenses were expected to be provided by the parent Ministry. Further, no report was provided to show the output of the facilitated state officers.

1758) Consequently, the regularity of KSh.512, 800 expenditures could not be confirmed for the year ended 30thJune, 2018.

Submission by the Accounting Officer

1759) The Accounting Officer submitted that the project prepared a Terms of Reference (ToR) for the assignment which received Agence Francaise de Development - AFD no objection on 17th May, 2017. The ToR clearly indicates that it is the responsibility of the project to pay for the travel logistis and emoluments to the officers providing technical support in line with the laid down regulations. Copies of ToR, AFD no objection and the progress report on the assignment were provided for perusal by the Committee**.**

Committee Observations and Findings

1760) The Committee observed and found that:

1) The Committee observed that the in the Terms of reference for the project, it was the responsibility of the project to pay for the travel logistics and emoluments to the officers providing technical support in line with the laid down regulations; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1761) The Committee recommended that:

1) **Accounting Officers MUST at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer MUST at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer MUST at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

636. Floodlight Relocation

1762) Included in the acquisition of non-financial assets figure of KSh.238, 422,187 as shown in the statement of receipts and payments is a floodlight valued at KSh.4, 618,772. The floodlight was supposed to be supplied, installed, tested and commissioned at Oile Market. The management said that the floodlight was relocated to Kenyatta Sports Ground. However, the relocation was not supported by the Engineer's and AFD's approvals.

1763) Consequently, the existence of the floodlight and expenditure of KSh.4, 618,772 could not be confirmed for the year ended 30th June, 2018.

Submission by the Accounting Officer

1764) The Accounting Officer submitted that the flood light relocation was done as discussed and approved in a meeting with the Engineers approval. Attached for perusal by the Committee were copies of the resolution and the engineer's certificate**.**

Committee Observations and Findings

1765) The Committee observed and found that:

1) The explanation given by the Accounting Officer on the approval of relocation of the floodlights was persuasive; and

2) The Committee marked the matter as resolved.

Committee Recommendations

1766) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

Emphasis of matter

637. Delay in Projects Implementation

1767) Payments amounting to KSh.5, 985,986, KSh.4, 421,189 and KSh.406, 859 and totaling KSh.10,814,034 were made to KPLC and Kisumu Water and Sewerage Company (KIWASCO) respectively for relocation of service lines. However, physical verification carried out on 11thOctober, 2018 revealed that the relocation of the service lines had not been carried out which therefore delayed the inception of road works. The delay was caused by failure of KUP to issue Value Added Tax exemption certificate to KPLC and no action was taken to compel KIWASCO to relocate the service line.

Submission by the Accounting Officer

1768) The Accounting Officer submitted that the delay came as result of the tussle in providing VAT exemption certificate. The road is now complete and is in use.

Committee Observations and Findings

1769) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the delay in projects implementation was pursuasive;
2) The delay came as result of the tussle in providing VAT exemption certificate. The road was complete and in use; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1770) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer MUST at all times ensure that he/she provides accurate**

records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

638. Pending Bills

1771) Excluded from note 9.1 to the financial statements under pending accounts payable are retention fees liabilities held during the defect's liability period amounting to KSh.36,590,141. However, liabilities brought forward from the financial year 2016/2017 that remained outstanding as at 30thJune, 2018 amounted to KSh.26,826,664.

1772) Further, the closing bank balance as at 30thJune, 2018 stood at KSh.42,205,209 indicating adequate funds were available to meet the obligations. It was not explained why the contractors had not been paid retention fee, twelve months after the expiry of the defect's liability period.

Submission by the Accounting Officer

1773) The Accounting Officer admitted that the amount of KSh.36,590,141.23 was the retention fees as at 30th June, 2018. Retention fees are only paid on the approval of the supervising consultant. That the Department did not have any request for release of retention fees that was pending as at 30th June, 2018.

Committee Observations and Findings

1774) The Committee observed and found that:

1) The non-payment of the pending was as a result of the delay by the Contractor to request for release of retention fees; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1775) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

639. Budget Performance

1776) The statement of comparative budget and actual amounts reflect final budget of KSh.897,288,735 against printed estimate figure ofKSh.655,000,000 resulting in a variance of KSh.242,288,735 that was not explained or supported by supplementary printed estimates.

1777) Further, it was noted that the entity under absorbed the budget on purchase of goods and services (14%), acquisition of non-financial assets and transfer to CEF by 14%, 53% and 37% respectively.

Submission by the Accounting Officer

1778) The Accounting Officer admitted that the amount initially allocated under Loan AIA of KSh. 655,000,000 was not adequate to cater for direct payments need in that year.The State Department of Housing and Urban Development obtained authority from the National Treasury to re-allocate additional funds from Loan Revenue to Loan AIA to cater for the payments of direct payment requests/euro currency contracts. There was inadequate funding since the project received KSh. 116,645,400 only during the entire financial year. This led to under absorption on the above expenditure vote heads.

Committee Observations and Findings

1779) The Committee observed and found that:

1) The explanation given by the Accounting Officer on the Budget Performance was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1780) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

640. Expired Performance Guarantee Bonds

1781) A follow up on the previous year audit recommendations revealed that the construction of Kemri-Otonglo and Tiengre roads was awarded to a local company who presented a forged performance bond. As a result, KUP has incurred loss of KSh.8, 517,588 according to a letter dated 5th August, 2017 that was written to the contractor informing the firm of KUP intention to recover the amount. The contractor has since abandoned the site. In addition, a loss of KSh.5, 859,132 was incurred for terminating a contract with another contractor for the construction of Namthoe road. The performance bond that the contractor issued had expired and had not been renewed as at the time of the audit. Consequently, the two (2) contracts resulted in loss of public funds.

1782) Further, the performance guarantee of KSh.4, 801,474 for a local contractor which expired on 9th February, 2016 is yet to be renewed. The contract to supply, install blade server, set up data center and related services continued beyond its completion date but has not received a no objection from the financier to extend the end date resulting in irregular engagement by management.

Submission by the Accounting Officer

1783) The Accounting Officer submitted that the Contractor was reported to the National Construction Authority and Public Procurement Regulatory Authority on 19th October, 2018 as per attached letters. In addition, the officer responsible for this occurrence was served with a warning letter.

Committee Observations and Findings

1784) The Committee observed and found that:

1) The explanation given by the accounting officer on the expired performance guarantee bonds was persuasive; and
2) The committee marked the matter as resolved.

Committee Recommendations

1785) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISKMANAGEMENT AND GOVERNANCE

Basis for Conclusion

641. Invalid Transactions

1786) The KUP Project Committee did not validate the bank reconciliation statements for the months of May, 2018 and June, 2018 contrary to the KUP operations manual. Further, a payment validation voucher for refund of performance bond of KSh.10,851,361 (cheque no. 322) to a local company on 12thMarch, 2018 was not authorized by the city manager. In addition, a payment validation voucher to another company dated 26th June 2018 for supply of motorcycles of KSh.2,574,000 was not authorized by the Technical Assistance Team (TAT) for Finance contrary to set KUP payments approval process.

Submission by the Accounting Officer

1787) The Accounting Officer admitted that by the time of audit the management did not validate the two bank reconcilition statements, payment voucher for KSh. 10,851,361 was not authorised by the City Manager and that the payment voucher of KSh. 2,574,000 was not validated by the Technical Assistant Team (TAT)-Finance.the State Department has now regularized the anomalies.

Committee Observations and Findings

1788) The Committee observed and found that:

1) The explanation given by the accounting officer with regard to invalid transactions was persuasive; and
2) The committee marked the matter as resolved.

Committee Recommendations

1789) The Committee recommended that:

1) **Accounting Officers MUST at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers MUST at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**
3) **Accounting Officers MUST at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

642. Unsupported Receivables from Related Parties

1790) Included in note 8.10 to the financial statements under receivables from related parties' figure of KSh.3, 201,124 is a KUP Cash Expenditure Fund (CEF) amount of KSh.2, 823,963 in respect to ineligible expenses incurred by the Kisumu Urban Project Advanced Account (KU- PAA) which should have been financed by KUP-Cash Expenditure Fund. This leads to commingling of separate funds.

Submission by the Accounting Officer

1791) The Accounting Officer admitted that this amount refers to operational expenses which were pre-financed by (KU- PAA) on behalf of CEF. The manegement will refund the finances back to (KU- PAA) once it receives a no objection from the financier.

Committee Observations and Findings

1792) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to uunsupported receivables from related parties was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1793) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

643. Unapproved KUP Operation Manuals

1794) During the year under review, KUP used draft operations manual that did not receive lender's no objection contrary to amendment No.2 to the CFA Clause 5.

Submission by the Accounting Officer

1795) The Accounting Officer submitted that the management submitted the draft operations manual to the lender for issuance of a No objection on 6th November,2018. The State Department has sent a sent a reminder to the financier.

Committee Observations and Findings

1796) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to unapproved Kisumu Urban Project operation Manuals was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1797) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

KISUMU URBAN PROJECT (CASH EXPENDITURE FUND) -CKE 1035.01.G
REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

644. Unsupported and Misstatement of All Other Expenditure

1798) Note 11 to the financial statements reflect all other expenditure figure of KSh.651,659 which includes a payment dated 18 April 2018 vide cheque number No.506 for KSh.39,060. The payment was presented in the financial statements both as an expenditure and outstanding imprest. Further, a petty cash expense of KSh.118, 775 was not supported by payment vouchers. In addition, a payment of KSh.145, 850 did not have any narration as to identify what the expenditure s as at 30th June, 2018 could not be confirmed.

Submission by the Accounting Officer

1799) The Accounting Officer submitted that the figure of KSh. 39,060 was wrongly included as payment instead of an oustanding imprest.This ocurred due to the manual system that was in use by then.This oustanding imprest has been removed from the income statement and reported under receivables.The payment voucher of KSh. 145,850 has been availed to the auditor. The management has downloaded quickbooks to help improve on its financial management.

Committee Observations and Findings

1800) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to unsupported and misstatement of all other expenditure was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1801) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

645. Unsupported KUP Secretariat Expenses

1802) Note 10.8 to the financial statements as at 30th June 2018 reflect KUP secretariat services figure of KSh.4, 288,710. This balance includes cash payments totaling KSh.3,660,621 shown in the bank statements as paid to one officer on behalf of various officers to perform different functions. However, the payments lacked supporting documents (travel tickets, receipts and invitation letters) to show that the intended functions were achieved. Further, a petty cash expenses amount of KSh.710, 421 was not supported by way of payment vouchers or receipts.

1803) As a result, the accountability and propriety of the KUP Secretariat expenditure of KSh.4, 288,710 could not be ascertained.

Submission by the Accounting Officer

1804) The Accounting Officer submitted that the supporting documents to the payment of KSh.3,660,621 has been provided to the auditor.A ledger supporting the petty cash payment of KSh.710,421 has also been provided to the auditor.

Committee Observations and Findings

1805) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to unsupported KUP Secretariat expenses was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1806) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

646. Ineligible Pending Bills

1807) Indicated under item (iv) of the significant accounting policies to the financial statements are pending bills amounting to KSh.2,128,038 as at 30thJune, 2018, contrary to amendment No.2 to clause 4 of credit financing agreement (CFA).

1808) Further, three (3) outstanding imprests totaling to KSh.551,438 (travelling cost to Nairobi KSh.38,600; cost of AFD mission KSh.366,800; reimbursement of float KSh.146,038) were classified as pending bills under unclear circumstances. In view of the foregoing, the eligibility of the pending bills of KSh.2, 128,038 is doubtful.

Submission by the Accounting Officer

1809) The Accounting Officer submitted that the three payments totalling KSh.551,438 were wrongly classified as pending billsinstead of oustanding imprests.The State Department has now classified them under receivables. Under cash basis IPSAs, pending bills consist of unpaid liabilities at the end of the financial year arising from contracted goods or services during the year or in past years.

Committee Observations and Findings

1810) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to ineligible Pending Bills was persuasive as it was classified under receivables; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1811) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

Emphasis of Matter

647. Budget Performance

1812) During the financial year, KUP (CEF) had a total budget of KSh.20,670,375 against a total expenditure of KSh.19,404,023 resulting in 94% budget absorption. Although the overall budget absorption rate is indicated as 94% the entity under spent the budget on office stationery (39%) and repairs & maintenance (44%), while they overspent on travelling & subsistence (105%), fuels, oils & tyres (160%) and KUP secretariat services (148%). In addition, training expenses incurred KSh.858,211 against a zero (KSh.0) budget.

1813) No explanation was given for the variances in budget performance as well as reasons for overspending on some expenditure items.

Submission by the Accounting Officer

1814) The Accounting Officer submitted that the expenditure of KSh. 858,211 was wrongly classified as training whenactually it was meeting expenses which is allowable under the CEF. The department has amended the financial statements to reflect this adjustment. The under spendings were caused by inadequate activities under the listed budget lines where as the overspendings were attributed to frequent work visits outside the stations to pursue project related activities.

Committee Observations and Findings

1815) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to Budget Performance was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1816) The Committee recommended that:

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

2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

648. Irregular Issuance of Imprest

1817) Note 14 to the financial statements under outstanding imprests and advances shows a balance of KSh.6,877,287 which includes of current outstanding imprests amounting to KSh.1,045,020. The imprests were issued in the names of various officers whose payment cheques were withdrawn by one officer (a third party to the imprests). However, there was lack of documentary evidence that the imprest holders received the due cash. Further, the imprests issued had not been surrendered as at 30th June, 2018 contrary to KUP operations manual.

1818) In addition, item named 'In eligible cost brought forward' amounting to KSh.5,427,267 was not supported.Further, two (2) outstanding imprests of KSh.38, 600 and KSh.366, 800 issued to an officer were erroneously reflected in the statements as pending bills.

Submission by the Accounting Officer

1819) The Accounting Officer submitted that although the payment cheque was issued in the name of the cashier, the State Department provided evidence to show that each imprest holder signed on receipt of cash. The imprest have now been surrendered. The Department has also ammended the financial statements to remove the two (2 No) oustanding imprest from pending bills to receivables. The State Department has downloaded quick books to help in the financial management including management of imprest.

Committee Observations and Findings

1820) The Committee observed and found that:
1) The explanation given by the Accounting Officer with regard to irregular issuance of imprest was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1821) The Committee recommended that:
The mater was resolved.

649. Invalid Bank Reconciliation Statements

1822) During the year under review, the bank reconciliation statements for twelve months were not validated or approved contrary to KUP operations manual. Further, the bank reconciliation statement for the month of May, 2018 was not availed for audit and no explanation was given for the omission. Consequently, the accuracy of the cash and bank balance as shown in the financial statements could not be confirmed**.**

Submission by the Accounting Officer

1823) The Accounting Officer submitted that the above occurred due to oversight on the part of the management. The bank reconcilition statements have now been regularised and the one for May, 2018 prepared and approved as required by the project operations manual.

Committee Observations and Findings

1824) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to invalid bank reconciliation statement was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1825) The Committee recommended that:

The matter is resolved.

650. Delayed Remittance of Withholding Tax

1826) During the year under review, a 30% withholding tax on motivational allowances amounting to KSh.1, 392,323 was remitted to Kenya Revenue Authority in two (2) installments of KSh.1,131,137 and KSh.261,186 on 15thDecember, 2017 and on 25th January, 2018 respectively. This translates to 9 months of delay in remittance contrary to the requirement by the Income Tax Act section 8(1). The late submission of the withholding tax may attract more penalties and lead to ineligible expenditure.

Submission by the Accounting Officer

1827) The Accounting Officer admitted that there was a delay in remittance of withholding taxes however the State department is now promptly remitting the taxes deducted at source. In addition,the officer responsible was given a warning letter.

Committee Observations and Findings

1828) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to delayed remittance of withholding tax was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1829) The Committee recommended that:

1) **The Cabinet Secretary of the National Treasury must ensure that any Public Officer, other than a receiver or collector of revenue for the national**

government, who collects revenue for that national government, delivers the revenue to a receiver or collector of revenue for the national government within three days after receiving it, pursuant to Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

2) **The Cabinet Secretary for the National Treasury must at all times ensure that a receiver of revenue for the national government provides monthly statements to the National Treasury and the Commission on Revenue Allocation pursuant to section 76 (3) of the Public Finance Management Act 2012.**

651. Irregular Payment of Motivational Allowances

1830) Included in the statement of receipts and payments is motivational allowances amounting to KSh.8,268,981. The allowances were paid to KUP secretariat from April, 2012 to June, and 2017. Nevertheless, there was no indication that the Salaries and Remuneration Commission (SRC) approved the allowances in accordance with Article 230 of the Constitution of Kenya 2010. Further, the above figure excludes a payment cheque No.310 dated 28thJanuary, 2018 of KSh.609, 434 which was paid through the KUP (PAA) bank account. In addition, a payment to an officer vide cheque No. 511 dated on 23th November, 2017 of KSh.876,487 was not supported with any documentation. Consequently, the validity of the expenditure could not be confirmed.

Submission by the Accounting Officer

1831) The Accounting Officer submitted that the KUP operations manual provides for the payment of motivation allowances to members of KUP secretariat. The state Departmwent received AFD's no objection to pay the allowances.

Committee Observations and Findings

1832) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to irregular payment of motivational allowances was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1833) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

652. Irregular Travelling and Subsistence Expenses

1834) Note 10.4 to the financial statements under travelling and subsistence expenses figure of KSh.2,618,635 includes expenses amounting to KSh.2,408,190. The expenses were incurred by issuing of imprest to an officer on behalf of other recipients, some of whom were not employees of the project. Further, there were no travel and subsistence documents to support the purposes of the imprests resulting to an irregular public spending.

Submission by the Accounting Officer

1835) The Accounting Officer submitted that the people who were paid were not strangers since AFD provided the no objection on the terms of reference to provide technical support to the project. The imprests has now been surrendered with all supporting travel documents including release letters, boarding passes, airtickets, taxi receipts and progress report on the assignment.

Committee Observations and Findings

1836) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to irregular traveling and subsistence allowances was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1837) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter be resolved.**

1838) <u>The Committee observed that Paragraph 653 on effectiveness of internal controls, risk management and governance were discussed and found as satisfactory</u>

20.0. STATE DEPARTMENT FOR PUBLIC WORKS

FINANCIAL STATEMENTS FOR VOTE 1095

Maj. Gen. (Rtd) Dr. Gordon Kihalangwa, the Accounting Officer for the State Department for Public Works (Vote 1095) appeared before the committee on 12th October 2020 to adduce evidence on the Audited Financial Statements for the State Department for Public Works (Vote 1095) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Samuel Kung'u - Head of Accounts
2. Eng. Gideon N. Mutala - Snr. Principal Superintendent Engineer
3. Dr. Muriuki Z. Mbogori - Chief Finance Officer
4. Mr. Sylvester Muli - Accountant
5. Mr. George S. Macgoye, EBS, OGW - Head, Supplies Branch
6. Ms. Emmah W. Kirungu - Head, Supply Chain Management Services

Basis for Adverse Opinion

654. Inaccuracies in the Financial Statements

1839) A comparison between the financial statements and the trial balance revealed a difference of Ksh.586,182,304 under cash and bank balances and a difference of Ksh.553,457,103 in payables balances. These variances were not reconciled and it was not possible to confirm the accuracy of the financial statements for the year ended 30 June 2018.

Submission by the Accounting Officer

1840) The Accounting Officer submitted that the difference between the financial Statement and the audited Trial which was in agreement with the IFMIS generated statement revealed a net difference of Ksh.586,182,304 and Ksh.553,457,103 under cash bank balances and liabilities respectively. The reconciliation of the above figure has been done by our Accountant responsible for Auto Bank reconciliation in consultation with IFMIS Officers from Treasury for the Financial Year 2016/2017, 2017/2018 and 2018/2019. The figures are now totally in agreement as per the amended Trial for the period under review.

Committee Observations and Findings

1841) The Committee observed and found that:

1) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations;
2) The reconciliations were done at a later date and submitted to the Auditor General for review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1842) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in

time and the complete financial statements submitted to the auditor general within one (1) month after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

655. Cash and Cash Equivalent

655.1 Recurrent Bank Account

655.1.1 Payments in the Cash Book not Recorded in Bank

1843) The reconciliation statement for recurrent account for the month of June 2018 reflect an amount of Ksh.15,795,232 as payments in cash book not in bank statements (unpresented cheques), included in this amount are payments totaling to Ksh.2,660,483 which are over six (6) months and therefore stale.

Submission by the Accounting Officer

1844) The Accounting Officer submitted that the bank reconciliation statement for the month of July and August, 2018 indicating how the amount of Ksh.15,795,232.40 was cleared in the bank. Also attached is a copy of cash book extract showing how the amount of Ksh.2,660,483.45 was corrected to correct the anomaly.

Committee Observations and Findings

1845) The Committee observed and found that:

1) There were delays by the Accounting Officer in making reconciliations of payments which are over six months. Regulation 90 (1) Of the PFM (National Government) Regulations 2015, requires Accounting Officers to ensure that every month, bank accounts are reconciled for each bank account statement sent to the National Treasury with a copy to the Auditor General not later than the 10th- of the subsequent month.
2) The reconciliations were done at a later date and submitted to the Auditor General for review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1846) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

656. Payments in Bank not in Cash Book

1847) The reconciliation further shows an amount of Ksh.3,188,624 being payments in bank not in cash book. Management did not provide explanation for the variance.

Submission by the Accounting Officer

1848) The Accounting Officer submitted that it was true that the bank reconciliation statement shows an amount of Ksh. 3,188,624.30 as payment made in the bank but not recorded in the cashbook. The Accounting Officer amended the bank reconciliation statement to correct these errors.

Committee Observations and Findings

1849) The Committee observed and found that:

1) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations;
2) The reconciliations were done at a later date and submitted to the Auditor General for review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1850) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

657. Receipt in Cash book not in Bank Statement

1851) The reconciliation statement also shows an amount of Ksh.1,724,899 as receipts in cash book not recorded in the bank statement which include an amount of Ksh.1,190,399 described as closing balance under cast. In addition, this amount includes Ksh.534,500 being receipt from State Department of Public Works not recorded in the bank statement. No explanation was provided on the discrepancies noted in the bank reconciliation statement.

657.1 Development Bank Account

657.1.1 Receipt in the Cash Book not in the Bank Statement

1852) Included in the bank reconciliation statements was Ksh.5,537,584 being receipts in cash book not in bank statement. Management has not explained why the cash book was not updated.

Submission by the Accounting Officer

1853) The Accounting Officer submitted that it was true that in the bank reconciliation statement was Ksh.5,537,584.20 for receipts not recorded in the bank statements from State Department Public Works. They have amended the bank reconciliation statement to correct Ksh.5,537,584 which was appearing as a contra entry.

Committee Observations and Findings

1854) The Committee observed and found that:

1) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations;
2) There were delays by the Accounting Officer in making reconciliations of cashbooks. Regulation 90 (1) Of the PFM (National Government) Regulations 2015, requires Accounting Officers to ensure that every month, bank accounts are reconciled for each bank account statement sent to the National Treasury with a copy to the Auditor General not later than the 10th- of the subsequent month
3) The reconciliations were done at a later date and submitted to the Auditor General for review and verification; and
4) The Committee marked the matter as resolved.

Committee Recommendations

1855) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

658. Payment in Cash Book not in Bank Statement

1856) The bank reconciliation statement for Development bank account as at 30 June 2018 reflect an amount of Ksh.9,831,837 as payments in cash book not in bank (unpresented cheques). Included in this amount was an amount of Ksh.5,585,081 representing payments which remained outstanding for more than six (6) months and were therefore stale. Management did not explain as to why those payments were not reversed in the cash book.

Submission by the Accounting Officer

1857) The Accounting Officer submitted that it was true that the bank reconciliation statement for development bank account for the month of June 2018 reflects an amount of Ksh.9,831,836.85 as payments in the cashbook not reflected in the bank statements. Included in this balance is a total of Ksh.5,585,081.45 representing payments which has remained outstanding for more than six months and are unlikely to be cleared by the bank.

1858) He added that they have amended the bank reconciliation statement since Ksh.5,537,584.20 which is part of Ksh.5,585,081.45 was also appearing as a contra entry in the cashbook therefore having no effect on the cash balances. This reversal of stale cheques was done on 3rd August 2018, cashbook Folio 2.

Committee Observations and Findings

1859) The Committee observed and found that:

1) There were delays by the Accounting Officer in making reconciliations of cashbooks. Regulation 90 (1) Of the PFM (National Government) Regulations 2015, requires Accounting Officers to ensure that every month, bank accounts are reconciled for each bank account statement sent to the National Treasury with a copy

to the Auditor General not later than the 10th- of the subsequent month.

2) The reconciliations were done at a later date and submitted to the Auditor General for review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1860) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

658.1 Deposit Bank Account

658.1.1 Payments in Cash Book not in Bank Statements

1861) The reconciliation statement reflects an amount of Ksh.10,640,280 as payments in cash book not in bank. Included in this amount was an amount of Ksh.600,000 being cash book error adjustment which has not been explained or reconciled.

Submission by the Accounting Officer

1862) The Accounting Officer submitted that it was true that the bank reconciliation statement for deposit bank account for the month of June 2018 reflects an amount of Ksh.10,640,279.70 as payments in the cashbook not reflected in the bank statements. Included in this balance is a total of Ksh.600,000 representing cashbook error adjustment. We have corrected the cashbook to correct the error adjustment.

Committee Observations and Findings

1863) The Committee observed and found that:

1) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations;
2) The reconciliations were done at a later date and submitted to the Auditor General for review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1864) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

659. Cash in Hand

1865) The financial statements under note 7A reflect cash in hand as Ksh.40,314 whereas the trial balance reflects Ksh.2,448,277,169 resulting to unexplained and unreconciled difference of Ksh.2,448,236,855. In the circumstance it was possible to confirm the completeness and accuracy of the cash and cash equivalent balance of Ksh.631,800,997 as at 30 Jun 2018.

Submission by the Accounting Officer

1866) The Accounting Officer submitted that it was true that the IFMIS trial balance reflected cash of Ksh.2,448,277,169 while financial statement reflected cash in hand balance of Ksh.40,314. The reconciliation of the above figure has been done by our Accountant responsible for Auto Bank reconciliation in consultation with IFMIS Officers from Treasury for the Financial Year 2016/2017, 2017/2018 and 2018/2019. The figures are now totally in agreement as per the amended Trial for the period under review.

Committee Observations and Findings

1867) The Committee observed and found that:

1) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations;
2) The the reconciliations were done at a later date and submitted to the Auditor-General for review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1868) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

660. Pending Bills

1869) Annex 1 of the financial statements reflects analysis of pending accounts payable totalling Ksh.821,171,919 which remained unpaid as at 30 June 2018 and were carried forward to 2018/2019 financial year. Had the pending bills been settled in 2017/2018, the surplus of Ksh.2,727,127 reported would have been reduced by the same amount.

Submission by the Accounting Officer

1870) The Accounting Officer submitted that it was true that the pending bills disclosed in the Financial Statement was Ksh.10,352,026.00 which consisted of all bills that were processed for payment but lacked Exchequer provision to facilitate funds transmission/ Bank transfer. I wish to state that these pending bills of Ksh.909,950.00 were paid during the financial year 2017/2018 in full as per the attached pending bill analysis status and copies of the payment vouchers.

1871) The additional list of Ksh.354,544,474 and Ksh.41,103,635 had no budgetary provision, and therefore they were never processed for payments. These were certificates that were issued for works done from all ongoing projects, but by the time of processing payments, due to Austerity measures there were budget cuts. Most of those pending bills were cleared in FY 2018/2019 and 2019/2020.

Committee Observations and Findings

1872) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the pending accounts payable totalling Ksh.821,171,919 which remained unpaid as at 30 June 2018 was satisfactory;
2) The pending bills were settled in the subsequent year and a breakdown showing those owed and the reasons for delays was provided in line with Section 156 (4) (d) of the PFM Act, 2012; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1873) The Committee recommended that:

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

661. Unresolved Prior Year Matters

The following matters reported in 2016/2017 remained unresolved as at 30 June 2018:

661.1 Differences Between Financial Statements and Trial Balance

1874) As reported in 2016/2017, comparison between the financial statements and the trial balance which was in agreement with IFMIS generated statements revealed a difference of Ksh.3,727,394,544 under cash and bank balances and a difference of Ksh.,120,882,634 in payables balance. In the circumstance, it was not possible to confirm the accuracy and correctness of the financial statements for the year then ended.

The matter was considered in the 2016/17 PAC Report recommended as follows:

1) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

661.2 Pending Bills

1875) As reported previously, the statement of assets and liabilities as at 30 June 2017 reflected pending bills account payable amounting to Ksh.10,352,026. Included in this amount and as disclosed in note 10.1 to the financial statements was an amount of Ksh.909,950 related to supply of goods. However, in the course of the audit, management provided a schedule showing total pending bills of Ksh.354,554,474 and Ksh.41,102,636 for construction of buildings and construction of civil works respectively. Although management has explained that the pending bills of Ksh.364,554,474 and Ksh.41,103,635 had no budgetary provision during the year, no satisfactory explanation was provided for failure to include them in the budget.

The matter was considered in the 2016/17 PAC Report and recommendation made as follows:

1) The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

661.3 Cash and Bank Balances

1876) A review of the bank reconciliation statements in support of cash and bank and bank balance of Ksh.1,069,674,052 revealed the following;

661.4 Recurrent Bank Account

661.4.1 Payment in the Cash Book not Recorded in Bank

1877) The reconciliation statement for recurrent account for the month of June 2017 reflected an amount of Ksh.57,157,709 as payments in cash books not in bank statements (unpresented cheques) included in this amount are entries totaling to Ksh.10,850 which had over six (6) months therefore stale.

The matter was considered in the 2016/17 PAC Report recommended as follows:

1) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

662. Payments in Bank not in Cash Book

The reconciliation further showed an amount of Ksh.2,714,751 as payments made in the bank not posted in cash book which include an amount of Ksh.526,836 for closing balance under cast. Management did not provide explanation for these payments.

The matter was considered in the 2016/17 PAC Report recommended as follows:

1. The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

663. Receipt in Cash Book not in Bank Statement

1878) The reconciliation statement also showed an amount of Ksh.247,5501 for receipt in cash book not recorded in the bank statement. A review of the analysis provided for this balance showed that it comprised of cash book closing balance under cast of Ksh.105,267 and an amount of Ksh.142,283 for a SACCO dated 30 September 2016. Cash book under cast are supposed to be adjusted in the cash book and should not appear as reconciling item, also the nature of the receipt from the SACCO could not be established as it had no support.

The matter was considered in the 2016/17 PAC Report recommended as follows:

1) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

664. Development Bank Account

A review of the development account revealed the following;

i) Receipt in the Cash Book not in the Bank Statement

1879) The statement showed a total of Ksh.215,005 as receipt in the cash book not in bank statement which include an amount of Ksh.200,000 described as opening balance under cast dated 31 March 2017. It was not explained why the opening under cast appeared as a reconciling item instead of adjusting the cash book accordingly.

ii) Payment in Bank Statement not in cash book

1880) The statement included an amount of Ksh.227,555 for payment in bank statement not in cash book made up of Ksh.158,979 withholding tax dated 28 February 2017 and Ksh.68,278 for a holding company dated May 2017. The two entries were not supported and their validity could not be established.

664.1 Deposit Bank Account

664.1.1 Payments in Cash Book not in Bank Statements

1881) The reconciliation statement reflected an amount of Ksh.21,324,393 as payments in cash book not in bank. Included in this figure was closing balance under cast of Ksh.285,000 whose validity could not be confirmed.

The matter was considered in the 2016/17 PAC Report recommended as follows:

1) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

665. Receipt in Cash Book Not in Bank Statement

1882) The bank reconciliation statement reflected an amount of Ksh.9,024,644 for receipts in cash book not in bank statement which included Ksh.57,283 for a contracting company.

This amount had remained outstanding since 27 April 2016 and its nature and validity could not be confirmed. In the circumstance it was not possible to confirm the accuracy of the cash and cash equivalent balance of Ksh.1,069,674,052 as at 30 June 2017.

The matter was considered in the 2016/17 PAC Report recommended as follows:

1) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

Other Matter

666. Proposed Completion of Lamu Police Station and Management Housing

1883) As reported in the previous year, the Project was awarded to a company at contract sum of Ksh.615,848,997 and contract duration was 72 weeks to be completed on 19 February 2014. The Contractor was given extension of time which revised the completion date to 19 January 2017. A review of progress report dated 14 December 2017 showed Ksh.267,196,753 representing 46% of the contract sum had been certified and the Project was behind schedule as at 30 June 2017 while Ksh.12,952,170 had been incurred to pay interest. During the year 2017/2018, Management did not avail any progress reports and it was not possible to ascertain the status of the Project.

The matter was considered in the 2016/17 PAC Report recommended as follows:

1) The Accounting Officer must ensure that the construction of Lamu Port Police Station and Management Housing is undertaken following the right standards; and
2) The Ministry of Public Works should inspect the building and table their report to Parliament within a period of six months of the adoption of this report.

667. Construction of Mathare Nyayo Hospital

1884) As reported in the previous year, the project was awarded to an International Company at a contract sum of Ksh.1,212,414,732 with contract duration of 156 weeks. It commenced on 27 August 2012 with the expected completion date being 27 August, 2015. However, progress report showed that by July 2017, the value of work done stood at 48% of the contract sum. Subsequently Management had granted the contractor an extension of time by 76 weeks vide a letter Ref No. BD108/11/7325B/Vol.lV/13 dated 11 December, 2017 to bring the new completion date to 27 December 2018. Further, it was noted that project management expenses of Ksh.25,294,298 had exceeded the contracted bill of quantities (BOQ) Ksh.16,413,600 by Ksh.8,880,698.

1885) In addition, payment certificate for valuation No.20 dated 11 July 2017 showed that the Contractor had been paid Ksh.46,570,658 as interest on delayed payments. During the year under audit, Management did not avail the progress reports and it was not possible to confirm the status of the Project.

The matter was considered in the 2016/17 PAC Report recommended as follows:

1) Within three months after the adoption of this report the Accounting Officer must

ensure that the construction of Mathare Nyayo Hospital is undertaken following the right standards; and

2) The Ministry of Public Works should inspect the building and table their report to Parliament within a period of six months of the adoption of this report.

668. Proposed Completion of Kenya Institute of Business Training

1886) The contract was awarded to a company at a contract sum of Ksh.629,909,101 revised to Ksh.767,533,439 and contract duration of 115 weeks. The contract commenced on 12 March, 2009 with expected completion date being 28 June 2011. Though the project completion time was revised to 29 June 2018, the project works were still at 83% completion an indication of slow progress of works which is likely to lead to escalation of Project costs.

1887) In addition, as at 30 June 2018, Ksh.16,676,563 had been incurred to pay interest on delayed certificates which was a nugatory expenditure.

Submission by the Accounting Officer

The Accounting Officer submitted as follows: -

Project Status As At Handing Over In September, 2018

On Lower Basement

- Installation of firefighting equipment, sprinkler heads completed.

Upper Basement

- Sprinkler head system installations completed.
- Walling to stores complete and all lintels concreted.

Ground Floor-6th Floor

- Tiling to shops and exhibition space complete.
- Internal plumbing complete. Installation of fittings to be completed
- 3No.lifts installed and tested.
- Internal electrical wiring underway
- Internal; paint works-undercoat applied, waiting second and final coat.

External

- Amphitheater roof structure complete
- Fountain structure complete.
- External drain to NCC done
- External sliding gate installed
- External paint work done
- Curtain walling complete

1888) There were challenges regarding settlement of certified interim payments and the delays in payments led to the contractor and subcontractors slowing down the progress of works. Due to uncertainties in funding of the project, it was decided that the project be mutually terminated and handed over to the User Client. The Contractor handed over the project to the Client on 13th September, 2018 and the preparation of the Project's Final Account is being undertaken by the Project's Consultants (listed above). It is noteworthy that the main cause for delay in completion of the works was delays in settlements of certified payments. The Project Manager exercised prudence in the management of the project so as to avoid escalation of nugatory expenditure arising from delayed payments and associated challenges.

Interest on Delayed Payment

1889) Payments under the contract are guided by clause 23 of the conditions of contract, which stipulate under clause 23.3 that

> *"The Employer shall pay the contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If the Employer makes late payment, the Contractor shall be paid simple interest on the late payment in the next payment. Interest shall be calculated on the basis of the number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate for base lending prevailing as of the first day the payment becomes overdue."*

1890) During the currency of the contract, there were delays in settlement of various interim payment certificates. The interest due on delayed payments was computed in accordance with contractual provision stipulated in the above clause and an amount of Ksh.16,676,563.65 arising from delays in payment on various certificates included in the valuations and interim payment certificates.

Current Project Status

1891) The project was handed over to the User Client KIBT who have embarked on partitioning works and completion works. The first phase of completion works is almost complete and currently KIBT has occupied several floors. The second phase of completion works is now underway and is scheduled for completion in October, 2020.

Committee Observations and Findings

1892) The Committee observed and found that:

1) The inordinate delays in completion of the project was due to delayed exchequer releases leading to the incurrence of expenditures of Ksh.16.7million as accrued interest;
2) The Project was completed and handed over the State Department for Trade and that it is currently in use; and
3) The Committee marked the matter as resolved.

669. Construction of Bridges

1893) Included in the acquisition of non-current assets balance figure of Ksh.473,284,876 was an amount of Ksh.48,110,666 being amount paid for construction of bridges in various Districts which were procured through restricted tendering instead of open tender. Management has not satisfactorily explained why restricted tendering was used as opposed to Open Tendering Method. As such it has not been possible to confirm whether the Department obtained value for money in construction of the bridges.

Submission by the Accounting Officer

1894) The Accounting Officer submitted that it was true that included in the acquisition of non-current assets balance figure of Ksh.473,284,876 is an amount of Ksh.48,110,666 being amount paid for construction of footbridges in various districts which were procured through restricted tendering instead of open tender as required under Section 54 (2) of Public Procurement and Disposal Act, 2005.

1895) Restricted tendering was used for the following reasons:

(i) The footbridges were constructed as emergency works since there was heavy rainfall in 2012 which made some rivers impassable preventing children from attending school and citizens from accessing public facilities across the rivers. The makeshift bridges built by citizens in some cases had collapsed. The bridges were tendered in 2012.

(ii) The contractors required for the works were specialized steel structure contractors and were chosen from a database of those who had done such projects for the Ministry before

(iii)The lists of tenderers were approved by District Tender Committee which were in place at that time.

1896) There is value for money for the following reasons:

(i) The contracts were awarded at contract sums which were very close to the Engineer's Estimate of the costs of the works

(ii) Many of the footbridges have since been completed and are in use. The following is among list of the footbridges which were completed for those funded in 2017/2018:

S/NO	NAME OF COMPLETED FOOTBRIDGES
1	Footbridge over Atyar Primary
2	Footbridges at Kapkures and Cherumbas
3	Mayoni-Manyeni
4	Isongo Makunga
5	Riamokua Footbridge
6	Footbridge in Alego Usonga and Kaweru
7	Lelach Footbridge
8	Footbrdge at Ngasaida over Molo River
9	Lyon Footbridge

Committee Observations and Findings

1897) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the construction of Bridges was satisfactory;
2) The conditions for use of restricted tendering spelled out in Section 102 (1) of the PPDA Act 2012; and
3) The Committee marked the matter as resolved.

670. Motor Vehicles

670.1 Stolen and Un-Accounted for Motor Vehicles

1898) As reported in the previous year, a review on motor vehicles records showed that two vehicles were stolen and had not been recovered. Another two project vehicles had not been transferred to the State Department after completion of the project.

The matter was considered in the 2016/17 PAC Report recommendations made as follows:

> The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

670.2 Unaccounted for Vehicles Purchased

1899) As reported in the previous year (2016/2017) a payment voucher no. 0685 dated 20 March, 2017 showed that an amount of Ksh.13,825,000 was paid to a motor vehicle dealer for purchase of motor vehicles. A review of the supporting documents revealed that;

(i) The local purchase order No. 100 attached to the payment voucher was dated 9 February 2017 and was for the purchase of six (6) units of Toyota Prado (Japan made) at a unit price of Ksh.2,304,167 all totaling to Ksh.13,825,000. The total amount was paid on 7 March 2017. However, no documents were availed during the audit to confirm that the vehicles were received by the Department.

(ii) In response to audit report ref. SDOW/ACCTS/AUDIT/ (21) dated 27 April 2018. Management availed work tickets for a vehicle under State Department of Transport with registration number GKB 539R. However, the number differed from the supporting purchase documents (invoice) from the dealer dated 24 January 2017, which showed the registration number as GKB 539Q and the delivery note which had the registration number of GKB 539Z. It was therefore difficult to confirm which vehicle was actually delivered.

(iii) Also, the motor vehicle was not in the list of inventories of Department vehicles provided for audit.

(iv) Further, the vehicles log books and subject file were not availed for audit verification.

(v) In addition, there was no evidence that the vehicles were inspected after delivery by an inspection and acceptance committee as required under Section 48(3) of the Public Procurement and Asset Disposal Act, 2015.

1900) It was therefore not possible to confirm whether the vehicle is in existence and if it is registered in the name of the Department and used for official purposes. Consequently, it was not possible to confirm the propriety of the total expenditure of Ksh.13,825,000 incurred to purchase the unaccounted-for vehicles.

The matter was considered in the 2016/17 PAC Report recommendations made as follows:

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

1901) The Committee observed that Paragraph 671 to 672 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

STORES AND SERVICE FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

673. Lack of Budget, Ledgers and Trial Balance

1902) During the year ended 30 June 2018, Management did not avail an approved budget, ledgers and the trial balance for Stores and Service Fund.

1903) In the circumstances, it was not possible to confirm the accuracy and correctness of the Revenue from sale of goods amounting to Ksh.7,211,800 and the expenses totaling to Ksh.6,696,330 reflected in the statement of financial performance for the year ended 30 June 2018.

Submission by the Accounting Officer

1904) The Accounting Officer submitted that it was true that during the year under review, we did not maintain approved budget, Ledgers and the trial balance for the stores and service fund but we can confirm that in the next financial year, we shall maintain, sales and purchases day books, Journal accounts, Ledger Accounts, the trial balances and an approved budget to conform with the PFM Act.

Committee Observations and Findings

1905) The Committee observed and found that:

1) The Accounting Officer did not maintain approved budget, Ledgers and the trial balance for the stores and service fund during the year;
2) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations; and
3) The matter therefore remained unresolved.

Committee Recommendation

1906) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general

within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

674. Bulky Purchase of Stores and Fuel

1907) The bulky purchase of stores and fuel expenditure of Ksh.6,696,330 as reflected in the statement of financial performance was at variance with the supporting schedules and payment vouchers balance of Ksh.74,724,385 resulting to unexplained difference of Ksh.68,028,055. The expenditure was therefore understated by Ksh.68,028,055.

Submission by the Accounting Officer

1908) The Accounting Officer submitted that it was true that bulky purchase of stores and fuel expenditure of Ksh.6,696,330 as reflected in the statement of financial performance was at variance with the supporting schedules and payment vouchers balance of Ksh.74,724,385 resulting to unexplained difference of Ksh.68,028,055. We are in the process of reconciling the difference between the two figures and will make the necessary adjustments in the books of account to correct the error for your verification as soon as this is done.

Committee Observations and Findings

1909) The Committee observed and found that:

1) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations;
2) The reconciliations were being done at a later date to be submitted to the Auditor General for review and verification; and
3) The matter therefore remained unresolved.

Committee Recommendation

1910) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

675. Inventories

675.1 Unaccounted for Stocks

1911) The inventory balance of Ksh.130,736,547 as at June 2018 as per the statement of financial position was at variance with the inventory stock sheets balance of Ksh.515,470 resulting to unexplained difference of Ksh.130,221,077. In the circumstance, it was not possible to ascertain the accuracy of the Inventory balance of Ksh.130,736,547 as at 30 June 2018.

Submission by the Accounting Officer

1912) The Accounting Officer submitted that the inventory balance of Ksh.130,736,547 as at June 2018 is as per the Statement of Financial position and can be fully supported by stock sheets from various branches Country wide. The figure indicated in the report of Ksh.515,470 as stock sheet balances represent the surplus.

Committee Observations and Findings

1913) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the unaccounted for stocks was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

1914) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

675.2 Stocks Transferred to Regional Offices

1915) The Fund transferred stock worth Ksh.5,138,117 to Regional Offices (Kisumu Ksh.3,162,689 and Kisii Ksh.1,975,428) during the year under audit. There were no returns from these Regions to confirm whether the said stocks were received and taken on charge and accounted for.

Submission by the Accounting Officer

1916) The Accounting Officer submitted that it has been observed that record keeping and safety of documents has been below required standards and efforts to salvage records have as a result been challenging. It was noted that some historical adversities which occurred at the Supplies Branch may have interfered with the integrity of records. However, with the current reform and restructuring of the Supplies Branch, more efforts are in place towards realignment to regulations and safety of management data and records to recover and keep all the operations in full tracking capacity.

Committee Observations and Findings

1917) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the unaccounted for stocks was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

1918) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in

time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

676. Cash and Bank Balances

676.1 Cash in Transit

1919) The cash and bank balance of Ksh.6,847,026 as at 30 June 2018 include Ksh.377,860 referred to as cash transit which has been outstanding since 2016/2017 and no further details were provided.

Submission by the Accounting Officer

1920) The Accounting Officer submitted that for the year ending 30th June, 2018 as indicated in the statement of Financial performance and statement of net Assets is on page 1 & 3 of the Financial Statement.

Committee Observations and Findings

1921) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the unaccounted for stocks was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

1922) The Committee recommended that:

The matter be resolved

676.2 Lack of Bank Reconciliation Statements

1923) The cash and bank balance of Ksh.6,847,025 as at 30 June 2018 was not supported with a bank reconciliation statement. Management did not prepare bank reconciliation statements as required under Public Finance Management Act of 2012. It was therefore not possible to ascertain the completeness and accuracy of cash and bank balance of Ksh.6,847,025 as at 30 June 2018.

Submission by the Accounting Officer

1924) The Accounting Officer submitted that although the bank reconciliation was not produced as at the time of Audit, the same is herewith annexed.

Committee Observations and Findings

1925) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the lack of bank financial statements was satisfactory; and
2) The Committee marked the matter as resolved.

677. Receivables from Exchange Transactions

677.1 Long Outstanding Receivables

1926) The receivables from exchange transactions balance of Ksh.1,232,261 as at 30 June 2018 include receivables which have been outstanding for over one year and whose recoverability was doubtful. Management has not made any provision for doubtful debts. Further, management did not provide receivables age analysis.

Submission by the Accounting Officer

1927) The Accounting Officer submitted that it was true that the receivables from exchange transaction balance of Ksh. 1,232,261 as at 30th June, 2018 include receivables which had remained outstanding over a long period of time. Reconciliation is being undertaken.

Committee Observations and Findings

1928) The Committee observed and found that:

1) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations;
2) The reconciliations were being done at a later date to be submitted to the Auditor General for review and verification; and
3) The matter therefore remained unresolved.

Committee Recommendation

1929) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

678. Sale of Goods and Services

1930) The sale of goods and services received during the year amounted to Ksh.7,211,800 as compared to Ksh.100,047,544 in the previous year 2016/2017 representing 93% reduction. Management has not provided evidence of any efforts being made to reverse the trend in future and sustain its services.

Submission by the Accounting Officer

1931) The Accounting Officer submitted that it was true that the sales of goods and services received during the year under review amounted to Ksh. 7,211,800 as compared to Ksh. 100,047,544 in the previous year 2016/17 representing 93% reduction. This reduction during the year under review was attributed to most of the MDAs and Government Departments deciding to purchase goods and services directly from suppliers. This is consistent with the policy of reducing risk. The Supplies Branch is considering methods of obtaining commission on such sales as cost of processing.

Committee Observations and Findings

1932) The Committee observed and found that:

1) The Accounting Officer failed to do timely reconciliation of the trial balance as required under the PFM Act, 2012 and Regulations;
2) The reconciliations were done at a later date and submitted to the Auditor General for review and verification; and
3) The Committee marked the matter as resolved.

Committee Recommendation

1933) The Committee recommended that:
The matter be resolved.

679. Unresolved Previous Audit Matters

679.1 Presentation of Financial Statements

1934) Examination of the Fund's financial statements for the year ended 30 June 2017 revealed instances of noncompliance with the reporting template issued by Public Sector Accounting Standards Board (IPSAB). Some financial statements were not signed and some did not have headers, the statements of comparison of budget and actual amounts and disclosure notes were not prepared and attached.

The matter was considered in the 2016/17 PAC Report and recommendation made as follows:

1935) The National Treasury being the custodian/secretariat of the Public Sector Accounting Standards Board should at all times ensure there is complete compliance to the IPSAS standards of reporting issued from time to time by the Board.

The matters in Paragraphs 680 to 683 were considered in the 2016/17 PAC Report and recommendation made as follows:

1936) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

21.0. STATE DEPARTMENT FOR WATER SERVICES

FINANCIAL STATEMENTS FOR VOTE 1103

Mr. Joseph W. Irungu, the Principal Secretary and Accounting Officer for the State Department for Water Services (Vote 1103) appeared before the Committee on 2nd March 2020 to adduce evidence on the Audited Financial Statements for the State Department for Water Services (Vote 1103) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Joseph K. Keter - Secretary Administration
2. Eng. Sao Alima - Water Secretary
3. Ms. Agnes W. Waweru - Assistant Accountant General
4. Mr. Joel N. Onchary - Chief Finance Officer
5. Mr. Gideon Musambi - Chief Executive Officer National Authority
6. Mr. Joseph Towett - Chief executive Officer –CWWDA
7. Mrs. Monika A Omolo - Senior Deputy Director
8. CPA Charles Tunga - Chief Manager Internal audit
9. Eng. D. Oronje - Ag. Chief Manager
10. Mr. Paul Omondi - Ag. Director Finance
11. Eng. Boniface Mulama - Ag. Chief Executive LUNWWDA
12. Eng. George Odedeh - Chief Executive Officer LUSWWDA
13. Eng. Simon G. Mwangi - Finance Manager KWSCRP
14. Eng. Nahason Njuguna - Ag. Managing Director, Nairobi Company Water Services
15. Mr. Fredrick T. Mwamati - Ag. Chief Executive Officer TAWWDA
16. Mr. Dennis K. Mulis - Head of Finance TAWWDA
17. Mr. Michael Kimotho - Head of Finance AWWDA
18. Ms. Rosemary Chelangat - Chief Accountant LWWDA
19. Mr. Samwel M. Gachugia - Finance Manager, Nairobi Company Water Service

Basis for Qualified Opinion

688. Variances Between Financial Statements and Trial Balance

1937) A comparison of the financial statements and the trial balance availed for audit review had variances as indicated below: -

Item	Financial Statements (KSh.)	Trial Balance (KSh.)	Variance (KSh.)
Exchequer releases	16,620,310,434	39,436,368,036	(22,816,057,602)
Bank Balances-Recurrent Account	21,355,105	(109,464,047)	(88,108,152)
Bank Balances-	196,647,352	(4,209,375,850)	4,012,728,498

Development Account			
Bank Balances- Deposit Account	35,476,750	948,275	34,528,475
Cash Balances	698,852	9,497,059,058	(9,496,360,206)
General Deposits	35,476,750	33,969,410	1,507,340
Other Liabilities	0	758,540	(758,540)
System required Liabilities	0	6,615,900	(6,615,900)
Cash Clearing Account	0	(11,539,853,706)	11,539,853,706
Opening Balance Reserve	0	22,695,352,025	(22,695,352,025)

1938) In absence of a reconciliation between the two sets of records, it was not possible to confirm the accuracy and completeness of balances reflected in the financial statements and that those balances agree with the Department's books of accounts.

Submission by the Accounting Officer

1939) The Accounting Officer admitted that the financial statements balances provided for audit for the year ended 30th June, 2018 differ with the trial balance. The figures in the trial balance for bank balances, cash in hand, exchequer releases originated from the IFMIS cash book which is a product of the cash management module that had not been fully operazatizationalised by the time of reporting.

1940) For accountability and recording purposes the state department operated and still operates a manual cash book which provides reliable figures. These are the figures that were used to prepare the financial reports during the year under review. The figure of KSh.6,615,900/, (11,539,853,706) and 22,695,352,025 are system generated and were a result of auto bank reconciliation which is a product of the cash module discussed above.

1941) However, the cash management module has now been fully operationalized and in the subsequent financial year that ended 30th June 2019, the financial statements presented for audit tally with the IFMIS trial balance.

Committee Observations and Findings

1942) The Committee observed and found that:

1) The variances between financial statements and trial balance were yet to be reconciled, and
2) The matter therefore remained unresolved.

Committee Recommendations

1943) The Committee recommended that:

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

2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

689. Underfunding of the State Department

1944) According to the summary statement of appropriation for both Recurrent and Development Vote, the State Department had a total budget of KSh.44,704,627,545, from exchequer, foreign and domestic grants and borrowings. The Department however received KSh.28,977,170,367 from the three sources, resulting to an underfunding of KSh.15,727,457,178 (35%), as detailed below:

Receipt Item	Budget (KSh.)	Actual (KSh.)	Difference (KSh.)	% of underfunding
Proceeds from Domestic and Foreign Grants	521,000,000	317,244,314	203,755,686	39%
Exchequer releases	20,003,575,625	16,620,310,434	3,383,265,191	17%
Proceeds from Foreign Borrowings	24,180,051,920	12,039,615,619	12,140,436,301	50%
Total	44,704,627,545	28,977,170,367	15,727,457,178	35%

1945) Consequently, the State Department may have been unable to implement all the planned activities and this may have had a negative impact on service delivery to the public.

Submission by the Accounting Officer

1946) The Accounting Officer admitted that according to the summary statement of appropriation for both Recurrent and Development Vote, the State Department had a total budget of KSh.44,704,627,545, from exchequer, foreign and domestic grants and borrowings. The Department however received KSh.28,977,170,367 from the three sources, resulting to an underfunding of KSh.15,727,457,178 (35%). The different of KSh.15,727,457,178 was occasioned by the following:

a) Failure by the National Treasury to honour some exchequer requests that were made towards the end of the FY 2017/18.
b) Late approval of the Supplementary Estimates 2 of the budget for the FY 2017/18. The approval was done a few days to 1st June 2019 therefore this gave little room for the procurement and payment process to be finalized before the IFMIS system closure at the end of FY 2017/18.

c) The donor projects face innumerable systematic challenges that result to slow absorption of funds. This include bureaucratic procurement processes and procedures where they take long to complete or are delayed due to exogenous factors such as complicated cases of land acquisition, and payment of Project Affected Persons, delays in obtaining relevant approvals from State Agencies e.g. Kenya Forest Service, National Environmental Management Authority and Water Resource Authority.
d) Delay in clearance of tax exemption requisition by the National Treasury on tax match lists submitted for approval. This has been a major cause of delays in implementation of donor funded projects which has also adversely affected budget absorption levels.

Committee Observations and Findings

1947) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory, and
2) The Committee marked the matter as resolved.

Committee Recommendation.

1948) The Committee recommended that:

The matter be resolved..

690. Budget Performance

1949) A review of the budget and actual information for the State Department indicated instances of budget under performance under various items, as detailed below:

Receipt/Expense Item	Budget (KSh.)	Actual (KSh.)	Difference (KSh.)	% of Utilization
Other Receipts	678,186,770	5,067,000	673,119,770	1%
Transfers to Other Government Units	43,614,834,826	27,482,449,643	16,132,385,183	63%
Social Security Benefits	17,578,234	0	17,578,234	0%
Acquisition of Assets	248,839,461	3,069,970	245,769,491	1%

1950) The low budget utilization may have led to low implementation of planned activities and this may have had a negative impact on delivery of services to the public by the State Department.

Submission by the Accounting Officer

1951) The Accounting Officer submitted that the budget and actual information for the State Department indicated instances of budget under performance under various items.

Other Receipts

1952) Since the enactment of the water Act 2016 which devolved the mandate for provision of water and sanitation services to the county governments in line with the constitution, the collection of AIA has faced a big challenge. An amount of KSh.678,186,770 which featured in the printed estimates was expected to be collected and returns submitted by the former water service Boards to the Ministry for accounting purposes. The returns however were not received and hence the underperformance.

1953) Discussions between the Ministry and the Agencies on how and what amounts of A.I.A should be reported has yielded fruits and in the financial year 2018/2019 the Agencies forwarded returns of more than 90% of the budgeted amounts.

Transfer to other Government Units

1954) The State Department hast two modes of transferring funds to the Boards revenue through exchequer and A-I-A through direct payments. The lengthy procurement procedures and processes result in delayed submission of certificates and request for exchequers for externally financed projects resulting to low absorption. Issues of land compensation and obtaining necessary approvals where other government departments are involved contribute immensely to the delay in implementation of donor funded projects.

Social security Benefits

1955) These funds were received during the supplementary budget, with anticipation to pay gratuity for those officers employed on contract basis. However, the funds were not paid since no claim was raised against the budgetary allocations, thus the unspent balance.

Acquisition of Assets

1956) The funds of KSh.245,000,000/ were received during the supplementary budget, the funds were meant for Water and Sanitation development programme which was supposed to be implemented during the financial year but did not take off due to various constraints. The Country Participation Agreements (CPAs) between the National Treasury and the counties had not been signed and so disbursement of funds could not happen. The counties had also not opened special accounts in Central Bank of Kenya and project accounts in commercial bank to allow for funds flow.

Committee Observations and Findings

1957) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was persuasive, and
2) The Committee marked the matter as resolved.

Committee Recommendations

1958) The Committee recommended that:

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

accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

691. Motor Vehicle Management

1959) A review of the State Department's transport correspondences showed that motor vehicle registration No.KCH 683T, which was allocated to a former Cabinet Secretary, was not handed over to the Department when the officer was transferred to another State Department.

1960) In addition, a review of the Ministry's vehicles ownership documents revealed that fifteen (15) vehicles had no ownership documents as detailed below:

S/No.	Vehicle No.	Make/Type
1	GK A198U	VW Passat
2	GK A999T	VW Passat
3	KBG 118C	Toyota Hilux D/Cabin
4	GK A921Q	Toyota Prado
5	KAU 096V	Nissan X-trail
6	GK A905G	Nissan Patrol
7	KAU 476L	Toyota Prado
8	GK A 087U	Nissan sunny saloon
9	GK A139L	Nissan Sanny
10	GK A187L	Nissan Urvan
11	GK A537L	Nisan x-trail
12	GK A440F	Nissan double cabin
13	GK A458K	Nissan X-trail
14	KAU 678P	Toyota Prado
15	GK A 141	Nissan Saloon

1961) Further, 4 vehicles which previously belonged to Projects implemented under the State Department but reverted back to the State Department following completion and subsequent closure of the projects were still bearing private registration numbers and were yet to be changed to Government registration numbers as detailed below:

S/No.	Vehicle No.	Make/Type
1	KAU 476L	Toyota Prado
2	KBH 282Q	Toyota Prado
3	KBV 755T	Nissan Navara
4	KAH 438Z	Isuzu Trooper

1962) Under the circumstances, it was not possible to confirm the ownership and that there was effective management of the Department's vehicles.

Submission by the Accounting Officer

1963) The Accounting Officer admitted that review of the State Department's transport correspondences showed that motor vehicle registration No.KCH 683T, which was allocated to a former Cabinet Secretary was not handed over to the Department when the officer was transferred to another State Department.

1964) The Former Cabinet Secretary has not yet handed over the vehicle registration number KCH 683T upon his transfer to the Ministry of Devolution. The Ministry has since written to the Principal Secretary, Ministry of Devolution to release the motor vehicle. Further the Ministry is in possession of the ownership documents for the under listed vehicles and is in the process of getting duplicate documents of the remaining vehicles.

S/No.	Vehicle No.	Make/Type
1	GK A198U	VW Passat
2	KAU 096V	Nissan X-trail
3	KAU 476L	Toyota Prado
4	GK A187L	Nissan Urvan
5	KAU 678P	Toyota Prado
6	GK A 141	Nissan Saloon

1965) The Accounting Officer admitted that the 4 vehicles which previously belonged to Projects implemented under the State Department but reverted back to the State Department following completion and subsequent closure of the projects were still bearing private registration numbers but the Ministry has initiated the process of seeking authority from National Transport and Safety Authority (NTSA) to transfer previously project motor vehicles to be registered with Government of Kenya number plates. The process as advised by NTSA will be done online. The Ministry has since nominated an officer who will be authorised to process the registration online on TIMS Portal.

Committee Observations and Findings

1966) The Committee observed and found that:

1) The Motor Vehicle registration No. KCH 683T was not surrendered by the former Cabinet Secretary as at the date of the Committee;

2) The Accounting Officer vide a letter Ref. No. MWS/TRAN/5/1/VOL.III (290) dated 13th March, 2020 confirmed to the Committee that the former Cabinet Secretary had returned the Motor Vehicle on 6th Friday, 2020. This was after the Committee issued an order on 2nd March, 2020 that the Former Cabinet Secretary returned the Motor Vehicle ; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1967) The Committee recommended that:

The Accounting Officers must ensure that within one month of change/vacation of Office by a State Officer, proper handing over is done and full register of assets (fixed and movable) declared to the incoming State Officer.

1968) The Committee observed that Paragraph 692 to 694 on lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory

Other Matter

695. Unremitted Funds

1969) The statement of receipts and payments for the year ended 30 June 2018 reflected KSh.969,581,289 being total receipts for the year. Included in this amount was KSh.845,043,789 (note 8.4) being the loan from external development partners consisting of KSh.601,848,419 equivalent to (USD 54324,888,236) and KSh.243,195,371 (EURO1,987,512) received from IFAD and Spanish Food Security Trust Fund respectively.

1970) However, the Project's special account statement from National Treasury reflected receipts from IFAD of KSh.602,118,418.96 (USD.5,888,235.04) and not KSh.601,848,419 (USD5,888,236) resulting in a difference of KSh.270,000. Records made available showed that the KSh.270,000 was released by the National Treasury to the Ministry of Water and Sanitation for onward transmission to the Project. Although, the Ministry confirmed receipt of the KSh.270,000, and the same had not been released to the Project as at 30 June 2018.

1971) In the circumstances, the accuracy of the Project's total receipts of KSh.601,848,419 in the statement of Receipts and Payments for the year ended 30 June 2018 could not be confirmed. Total receipt in the financial statement may have been understated by KSh.270,000 leading to inaccuracy of the financial statements.

Submission by the Accounting Officer

1972) The Accounting Officer admitted that the actual Receipts and Payments by the Project for the period under review was KSh.969,581,289. The amount include total loan from external development partners worth KSh.845,043,789, comprising KSh.601,848,419 from IFAD Loan No.I-867-KE and KSh.234,195,371 from Spanish Trust Fund Loan No.I-E-8-KE.

1973) The Accounting also admitted that the report from the Special Account reconciliation at the National Treasury show that the total receipt for IFAD Loan No.I-867-KE shows a total receipt of KSh.602,118,419 and not KSh.601,848,419 actually received by the Project leading to a difference of KSh.270,000.

1974) The Accounting Officer reported that the difference of KSh.270,000 was caused by erroneous capturing of corresponding figure of IFAD Loan amount by the National Treasury (captured as KSh.63,369,622 instead of KSh.63,639,622) in Exchequer Notification Letter Ref. No. DE: 25/17/18 dated 29th August 2017. The Ministry therefore could not release the said funds to the Project since the notification had several other projects, with each project having its corresponding amount clearly allocated against its name, despite KSh.270,000 having been included in the total exchequer amount of KSh.348,737,993 released to the Ministry vide the same notification.

1975) The National Treasury later confirmed the above position and clarified to Ministry in their letter (Ref: No. DE: Vote 1103/2017/2018 Notification (25) dated 1st November 2018 and made it clear that KSh.270,000 was included in total exchequer amount of KSh.348,737,993 disbursed to the Ministry and was for IFAD Loan amount.

1976) Based on the above facts and considering the timing of getting this clarification, Ministry of Water and Sanitation promised to liaise with the National Treasury with a view of being facilitated to get the KSh.270,000 released to Project Account next financial year 2018/2019 (see their letter REF:ACCTS/VOL.1/2018/42 dated 2nd November 2018.The transfer of KSh.270,000 was eventually effected to the Project by the Ministry during the year 2018/2019.

Committee Observations and Findings

1977) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory, and
2) The Committee marked the matter as resolved.

1978) The Committee observed that Paragraph 696 to 698 on lawfulness and effectiveness in use of public resources effectiveness of internal controls, risk management and governance were discussed and found as satisfactory

Other Matter

699. Budgetary Absorption

1979) The Statement of comparative Budget and Actual Amounts shows total approved budget of KSh.1,000,000,000 against actual expenditure of KSh.393,256,353 resulting in under absorption of KSh.606,143,647 representing 61% of the total approved budget. Further, in spite of the fact that three and half years of the project life had lapsed as at the time of the audit, the project had absorbed only KSh.640,029,400 out of the KSh.20 billion loan representing 3% of the total loan. In the circumstance, there is likelihood that the loan may not be fully utilized at the end of the project life**.**

Submission by the Accounting Officer

1980) Of the total IDA finance of US$ 200 million, the larger portion was for infrastructure works in Mwache Dam, 2 check dams and irrigation, Kwale, Ukunda, LungaLunga and

Msambweni water supplies, all at US$ 185 million which translates to 93% of total finance. None of the infrastructures had been designed or had ESIA and RAP studies conducted. Thus procurement of international consultants for designs and others for ESIA/RAP took several months which the design work, particularly for Mwache Dam, took about two years, followed by several months of bidding process.

1981) Bidding for Mwache Dam works was completed and contract for KSh.13.9 billion signed in August 2019. On the other hand the contract for Kwale Water supply for KSh.426 million was signed in November 2018. Considering that compensation of land and assets by National Land Commission is at an advanced stage, and the Mwache contractor having been paid Advance Payment of 20% on contract value, the disbursement is now at 21% and all funds will be absorbed within the financing period.

Committee Observations and Findings

1982) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory, and
2) The matter was resolved.

700. Delayed Project Implementation

1983) According to the project's progress reports and records reviewed, there were delays in the implementation of the projects, with some having delays of over one year, as detailed in the table below;

Contract Description	Contract Amount	Planned Contract Completion Date	Delays as at 1- Nov- 2018 (in days)
Consultancy Services for Physiographic Study of Mwache Watershed	USD 206,327	8-Apr-17	572
Social Impact Assessment of downstream impacts of lower Nzoia Irrigation Dev. Project & Mwache Dam project	KSh.28,988,400	15-May-18	170
Construction of rain water harvesting facilities and sanitation blocks for schools in Kwale County phase one	KSh.8,831,840	21-Oct-17	376

1984) Although management explained that the delays arose from linkages and sequence of the studies as well as the rough terrain and roads within Kwale County the objectives of the project may not be achieved as a result of the delays.

Submission by the Accounting Officer

1985) The Accounting Officer submitted that the consultancies for physiographic study of Mwache Watershed, Social Impact Assessment of downstream impacts of Mwache Dam, design and RAP/ESIA studies were all linked and sequenced so that when Findings of one did not support the next study, it impacted with delays due to reorganization of downstream contracts. These contracts had been cleared by the Ministry, but due to stringent World Bank policies and procedures that also keep being revised, obtaining No-objection from the Bank took too long.

1986) The above three contracts were eventually completed successfully, and results utilized for the final design of the dam and land compensation process and therefore this gives assurance that the objectives of the project will be achieved. The contract for Rainwater Harvesting and Sanitation Blocks was completed in 2019 and substantially completed with no cost overrun.

Committee Observations and Findings

1987) The Committee observed and found that:

1) The three contracts have since been completed, certificates of completion issued;
2) The Committee however found that the delay was due to unfinished technical works by the consultancies for physiographic studies; and
3) The matter was resolved.

Committee Recommendations

1988) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

1989) <u>The Committee observed that Paragraph 701 on effectiveness of internal controls, risk management and governance were discussed and found as satisfactory</u>

Basis for Conclusion

702. Internal Audit Review

1990) According to paragraph 9.2 of the projects' financial management manual, the Ministry's internal auditor should perform annual internal audit review on the project funds. According to information obtained from the internal audit department, no such internal audit review was performed on the project's funds during the year under review. In the absence of internal audit reviews, it was not possible to confirm the effectiveness of internal controls, risk management and governance of the project.

Submission by the Accounting Officer

1991) The Accounting Officer submitted that the Internal Audit Review had been planned but did not actualize due to time constraints. The Accounting Officer reported that it has now been intensified and was conducted in FY 2018-2019.

Committee Observations and Findings

1992) The Committee observed and found that:

1) The internal Audit Review for the 2017/18 Financial year was belatedly carried out in 2018/2019; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1993) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board pursuant to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012.**
2) **Accounting Officers must at all times ensure that they adhere to the provisions of Section 73(5) of the Public Finance Management Act 2012.**

LAKE VICTORIA WATER SUPPLY AND SANITATION PROGRAM-(PHASE II) PROJECT NO. P-KE-00-004(ADF GRANT NO.2100150019967)

Basis for Qualified Opinion

Paragraph 703 to Paragraph 756

1994) <u>It was observed that the above paragraphs were under the purview of the Public Investments Committee – PIC.</u>

1995) <u>The Committee observed that Paragraph 757 to 758 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory</u>

22.0. STATE DEPARTMENT FOR IRRIGATION

FINANCIAL STATEMENTS FOR VOTE 1104

Mr. Joseph Irungu, the Principal Secretary and Accounting Officer for the State Department of Irrigation (Vote 1104) appeared before the Committee on 13th February 2020 to adduce evidence on the Audited Financial Statements for the State Department of Irrigation (Vote 1104) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Ms. Rose Baraza - Accountant
2. Mr. Aboud Moeva - Irrigation Secretary
3. Mr. G. Mugambi - Chief Executive Officer
4. Ms. Jedidah Oduori - Chief Officer Finance
5. Mr. James Yatich - Director Land reclamation
6. Mr. Peter Chemwolo - Senior Chief Finance Officer
7. Mr. Joseph K. Keter - Secretary Administration
8. Eng. Samson Peter Gongi - Director Irrigation Department
9. Eng. Sao Alima - Water Services
10. Ms. Elizabeth Masaku - Head of Supply Chain Management
11. Mr. Musembi Munyao - PC/ TMWPA

757. Understatement of receipts

1996) The statement of receipts and payments for the year ended 30 June 2018 reflects an amount of KSh.244,838,105 in respect of proceeds from sale of assets. As disclosed under Note 4 to the financial statements, this amount relate to proceeds from sale of certified seeds and breeding stock by the National Irrigation Board (N.I.B) However, the financial statements for the National Irrigation Board reflected related sales of KSh.282,567,355 during the year, resulting in unexplained variance of KSh.37,729,250 which was not included in the proceeds from sale of assets.

1997) In addition, an amount of KSh.83,371,438 received by the National Irrigation Board from operations and other maintenance fees charged to farmers was not included in the receipts reflected in the statement of receipts and payments for the year ended 30 June 2018.

Submission by the Accounting Officer

1998) The Accounting Officer admitted that under note 7, there was variance of KSh.37,729,250 between two financial statement of the state department of irrigation and National irrigation board. NIB also reflected in its Financial Statements amount KSh.83, 371,438 received from its operations resulting in a total variance of (KSh.121, 100,688). The Accounting Officer reported that the reconciliation of Revenue was done and omission of KSh.121, 100,688 classified as AIA receipts from the National Irrigation Board was rectified by passing a journal entry and appropriate adjustments to the Financial Statements 2017/2018.

Committee Observations and Findings

1999) The Committee observed and found that:

1) A journal entry rectifying the omission was belatedly made to correct the understatement of receipts; and
2) The matter was resolved.

Committee Recommendations

2000) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

758. Grants and Transfers to Other Government Entities

2001) The statement of receipts and payments for the year ended 30 June 2018 reflects an amount totaling KSh.5,122,674,936 under Grants and Transfers to Other Government Entities. As disclosed in Note 7 to the financial statements, the payments include an amount of KSh.4, 530,782,834 transferred to National Irrigation Board (N.I.B) for recurrent expenditure and various development projects and schemes National Irrigation Board.

2002) However, the financial statements of the National Irrigation Board reflects total revenue of KSh.4,511,537,309 from the state department of Irrigation in the 2017/2018 financial year, resulting to an explained variance of KSh.19,245,525 between the two sets of records

Submission by the Accounting Officer

2003) The Accounting Officer submitted that the books of the State Department of Irrigation and those of the National Irrigation Board, where later reconciled and total transfer amount of KSh.4,511,537,309 was agreed on as per Attached Reconciliation Schedules and a journal entry was done to correct the omission

Description	**Class**	**Amount**
Recurrent	Transfer from the Exchequer	KSh.308,000,000
	AIA by NIB	KSh.391,716,196
Development	Transfer from the Exchequer	KSh.3,811,821,113
Total	**Transfers to NIB**	**KSh.4,511537,309**

Committee Observations and Findings

2004) The Committee observed and found that:

1) The discrepancy was belatedly reconciled by the Accounting Officer; and

2) The matter was resolved.

Committee Recommendations

2005) The Committee recommended that:

1) **Accounting Officers MUST at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers MUST at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers MUST at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

759. Construction and Civil Works

759.1 Unsupported Expenditure

2006) The statement of receipts and payments for the year ended 30 June 2018 reflects expenditure of KSh,5,187,675,452 on acquisition of assets and as disclosed in note 8 to the financial statements include an amount of KSh.5,184,704,489 relating to construction and civil works. The expenditure on construction and civil works further includes payments totaling KSh.4,975,394,355 as captured in the IFMIS Appropriation Accounts Item 3110500 in respect of Thwake Multi-purpose Water Development Programme phase I Project. However, project's financial statement for the year ended 30 June 2018 reflects receipts of KSh.4,926,717,779. Although the resultant difference of KSh.48,676,576 was attributed to payments of GOK counterpart funds not reflected in the financial statements of which an amount of KSh.26,915,000 was related to the expenditure incurred on the aborted launch of Thwake Multi-purpose Dam Project. Payment vouchers and supporting documentation for the balance of KSh.21,761,576 were not provided for audit review.

2007) As a result the validity and propriety of the expenditure of KSh.21,761,576 could not be confirmed.

Submission by the Accounting Officer

2008) The Accounting Officer admitted that within the financial year 2017/18 an amount of KSh.48,676,576 a GOK component was incurred to fund payments related to the programme (Thwake Multi-Purpose Dam Project) The said voucher relating to GOK counterpart has now been available for verification.

Committee Observations and Findings

2009) The Committee observed and found that:

1) The vouchers had been provided and were yet to be verified by the Office of the Auditor General; and
2) The matter therefore remained unresolved.

Committee Recommendations

2010) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter remained unresolved.**

759.2 Wasteful Expenditure Incurred on aborted launching of Thwake Multi-Purpose Development Project

2011) The expenditure incurred on the aborted launching Thwake Multi-purpose Dam Project of KSh.26,915,000 comprised payments relating to procurement of branded caps, polo shirts, men's shirts and corporate uniform. The project was to be launched in 2017/2018 financial year, but as at the date of this report, it had not been launched. A visit to the stores in December 2018 revealed that the procured items were still lying in the stores and had not been issued. The expenditure of KSh.26, 915,000 was, therefore, wasteful and could have been avoided.

Submission by the Accounting Officer

2012) The Accounting Officer admitted that the project was to be launched on 2017/2018 financial year. The government had planned to launch the project in 2017 but the activity was later postponed due to unforeseen circumstances. The process for launching is still ongoing.

Committee Observations and Findings

2013) The Committee observed and found that:

1) The procured items were existent in the stores and would be put to use at the date of the project launch; and
2) The matter was, therefore, marked as resolved.

Committee Recommendations

2014) The Committee recommended that:
The matter be resolved.

760. Cash and Cash Equivalents

2015) The statement of assets and liabilities reflects total cash and cash equivalents amount of KSh.88,317,851, as at 30 June 2018 and as disclosed under Note 9A to the financial statements, the amount comprises of balances of KSh.1,371,850, KSh.1,410,421 and KSh.95,535,590 held at the Central Bank of Kenya and relates to recurrent, development and deposit cash book balances respectively. Examination of individual cash books and bank reconciliations statements revealed the following matters.

760.1 Recurrent Bank Account

2016) The recurrent bank certificate as at June 2018 reflected an amount of KSh.52,002 266. However, the reconciling items were not explained and therefore their authenticity could not be ascertained.

2017) Further, the recurrent bank reconciliation statement as at 30 June 2018 reflected long outstanding reconciling items which had not been recorded in the cash book cash and some of which related to exchequer issues from the National Treasury. In addition, some of the reconciling items relating to receipts in the cash book not in the bank statements were explained as under payments in the cash book not recorded in the bank.2

2018) In the circumstance, the completeness and accuracy of the recurrent cash book balance of KSh.1,371,850 as at June 2018 could not be confirmed.

Submission by the Accounting Officer

2019) The Accounting Officer admitted that at the time of Audit Review the bank reconciliation had some figures that did not reconcile with the cashbook. The cashbook had recognize payment made at the end of June and were to reflect in bank statement at the beginning of July 2018. This was later cleared and cashbook and bank figures reconciled.

2020) The figures that relate to Exchequer issues that had not been recorded were entered in the cashbook and the bank reconciliation reviewed to reconcile with the cash book. The Accounting Officer reported that the long outstanding reconciling items and under payments as outlined have since been reviewed and rectified accordingly in the cashbook. The financial statement has since been reviewed and are in agreement with the bank statement.

Committee Observations and Findings

2021) The Committee observed and found that:

1) The omissions had since been reconciled and Financial statement reviewed; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2022) The Committee recommended that:

The matter be resolved.

760.2 Development Bank Account

2023) The development bank reconciliation statement as at 30 June 2018 reflected payments totaling to KSh.1,485,808,890 in the cash book and not yet captured in the bank statement. The amount of KSh.74,754,086 payable to Kenya Revenue Authority as Value Added Tax and withholding taxes. Out of the balances, owing to KRA an amount of KSh.2,627,668 was outstanding for more than six months. In addition, an amount of KSh.2,509,771.65 in the reconciliation had simply been described as transfers, and consequently its validity could not be confirmed.

2024) Further, development bank account reconciliation statement further reflected payments totaling KSh.2,314,343 in the bank statement had not yet been recorded in the cash book. The amount, which was payments to the staff members, did not have respective reference numbers.

Submission by the Accounting Officer

2025) The Accounting Officer admitted that the development bank reconciliation statement reflects an amount of KSh.1,485,808,890.25 being amounts paid in the cash book and not yet recorded in the bank statement. These were payment done at the close of financial year and entered in the cashbook but showed in bank reconciliation as payment in cashbook and not in the bank statement. They later cleared in bank in the month of July 2018.

2026) The payment of KSh.2,627,668.10 described as Stale cheques relates 6% Withholding VAT that were already uploaded to IB (Internet Banking) but experienced system related challenges towards final Transmission at the close of a financial year 2018. They were later uploaded and paid to KRA. Further KSh.2,314,343 relating to payments in the bank not in the cashbook, have since been analyzed and necessary adjustments done in the cashbook. The Development Bank reconciliation statement has since been revised.

Committee Observations and Findings

2027) The Committee observed and found that:

1) The omissions were later reconciled and necessary adjustments done in the cashbook; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2028) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

760.3 Deposits Bank Account

2029) The bank reconciliation statement as at 30 June 2018 for the deposits bank account reflected a cash book balance of KSh.58,029,900, while the bank certificate reflected a balance of KSh.85,535,580.00, resulting in a difference of KSh.27,505,680.

2030) In addition, the bank reconciliation statement reflected receipts of KSh.5,616,639 in the cashbook that had not yet been recorded in the bank statement. The reconciling items had been outstanding for a long time without any justifiable reason.

Submission by the Accounting Officer

2031) The Accounting Officer admitted that the bank reconciliation statement for the Deposits bank account reflected a cash book balance of KSh.58,029,900.18, while the bank certificate reflected a balance of KSh.85,535,580.00, resulting to a reconciling amount of KSh.27,505,680.

2032) The variation was caused by payment that were paid to state department Bank account during the transition period by Parent ministry of water when the state department moved to Ministry of Agriculture as retention on behalf of contractors the beneficiaries where later identified and adjusted in the cashbook.

2033) The issue of amount reflected as receipts of KSh.5,616,639 in the cashbook that had not yet been recorded in the bank statement where receipt of retention money that were deducted from the amount paid to the contractors at the close of the financial year were later reflected in the bank statement in the month of July 2018.

Committee Observations and Findings

2034) The Committee observed and found that:

1) The error was identified belatedly, and necessary adjustments done in the cashbook; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2035) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

761. Accounts Payables- Deposits

2036) The statement of assets and liabilities as at 30 June 2018 reflects accounts payables-deposit balance of KSh,85,535,580. However, deposits totaling to KSh.85,535,580 as disclosed in note 11 to the financial statements were supported with schedules amounting to KSh.49,628,676 only and thus, resulting in an explained variance of KSh.35,906,904.

2037) In the circumstance the completeness and accuracy of the accounts payables deposit balance of KSh.85,580,535 as at 30 June 21018 could not be confirmed.

Submission by the Accounting Officer

2038) The Accounting Officer admitted that the financial statements reflected a summary of pending accounts payables with a balance of KSh.85,535,580 as at 30 June, 2018. The stated balance is retention amount due to the contractors and is payable once a certificate of completion is issued a schedule of the list of beneficiary has been analysed to KSh.84,990,225.18

Committee Observations and Findings

2039) The Committee observed and found that:

1) The explanations by the Accounting Officer with regard to the completeness and accuracy of the accounts payables deposit balance of KSh.85,580,535 as at 30 June 21018 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2040) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

762. Prior Year Adjustments

2041) The statement of assets and liabilities as at 30 June 2018 reflects an amount of KSh.631,351,573 in respect of fund balance brought forward and a prior year adjustment of a similar amount. As disclosed in Notes 12 and 13 to the financial statements, the amounts related to cash and cash equivalent balances brought forward from the previous year, which were reversed during the year under review. Although the amounts were attributed by the management to settlement of outstanding retention monies to existing contractors and amounts surrendered to the National Treasury upon the year end, no documentary evidence was provided to support the assertion. Consequently, the validity of the transaction and prior year adjustments could not be confirmed...

Submission by the Accounting Officer

2042) Accounting Officer admitted that the statement of assets and liabilities reflects an amount of KSh.631, 351,573 under fund balance brought forward and a prior year adjustment of a similar amount. As disclosed in Notes 12 and 13 to the financial statements. This disclosure requirement as per the template for comparison purpose in the financial statement it's composed of bank balances and deposit funds retained on behalf 3rd parties.

Committee Observations and Findings

2043) The Committee observed and found that:

1) The explanations by the Accounting Officer with regard to the validity of the transaction and prior year adjustments was persuasive; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2044) The Committee recommended that:

The matter be resolved.

763. Outstanding Imprests

2045) The statement of assets and liability reflect a balanced of KSh.1,078,411 under accounts receivable-outstanding Imprest and clearance accounts as at June 2018 which as disclosed in note 10 of the financial statement relate to outstanding imprest. However, the outstanding imprest balance of KSh.1,078,411 was not supported with a schedule. Consequently, the completeness and accuracy of the outstanding imprests balance KSh.1, 078,411 could not be ascertained.

2046) In addition, the State Department for Irrigation kept parallel records of imprests namely, Manual Imprests Register and the IFMIS Record. However, it was observed that the two registers were not being reconciled. A review of a sample of imprests amounting to KSh.9,764,875, recorded in the manual imprest register revealed that the amounts had been surrendered, whereas the IFMIS records indicated that the imprests against the same individuals and totaling KSh.9,764,875 had not been surrendered. Further, an amount of KSh.5,571,340 had been captured in the Manual Register as outstanding but appeared as surrendered in the IFMIS records.

Submission by the Accounting Officer

2047) The Accounting Officer admitted that at the close of financial year 2017/18, the state department had in its books an outstanding Imprest balance of KSh.1,078,411 a proper reconciliation was later done for completeness and accuracy of the imprest and a balance was ascertained to be at KSh.1,008,249. All the imprest were later surrendered and there is no outstanding imprest**.**

2048) The Accounting Officer further admitted that the State Department for Irrigation kept parallel records of imprests. It kept a Manual Imprests Register and the IFMIS Record. He also admitted that the manual Imprest register did not reconcile with the IFMIS Imprest record at the time of audit Review.

2049) The variance between the two books of accounts as a result of IFMIS system experienced a downtime resulting in delay in update of the sub ledger. State department would clear the manual register and later update the IFMIS record.

2050) The state department through the letter requested the National Treasury to open the system and the update of the system was done. The two sets of records has now been reconciled and shows a nil balance since all imprests have been surrendered.

Committee Observations and Findings

2051) The Committee observed and found that:

1) The imprest has since been surrendered and cashbooks reconciled;
2) The Committee marked the matter as resolved.

Committee Recommendations

2052) The Committee recommended that:

Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

764. Summary of Fixed Assets Register

764.1 Failure to Record Assets

2053) The statement of receipts and payments reflects an amount of KSh.5,187,675,452 under acquisition of assets and as disclosed in Note 8 to the financial statements includes an amount of KSh.68,000 spent on acquisition of ICT equipment, software and other ICT assets. This amount does not however, include an amount of KSh.1,804,000 incurred in the procurement of AutoCAD software. No explanation was given for the failure to include the amount in the assets register these financial statements.

Submission by the Accounting Officer

2054) The Accounting Officer admitted that the amount of KSh.1,804,000 did not include an amount of KSh.68,000 spent on acquisition of ICT equipment, software and other ICT assets. This was an omission and a corrective measures were taken by correcting the classification and adjusting figure in the Financial Statements to reflect KSh.1,872,000 under Purchase of ICT equipment, Software and other ICT assets.

Committee Observations and Findings

2055) The Committee observed and found that:

1) The omissions have since been reconciled and financial statement revised and

reviewed; and

2) The Committee marked the matter as resolved.

Committee Recommendations

2056) The Committee recommended that:

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

764.2 Failure to Maintain a Complete Assets Register

2057) As disclosed under Annex 4 to financial statements, the State Department had assets with a historical cost value of KSh.6,221,276,816 as at 30 June 2018 including additions of KSh.5,187,675,452 in 2017/2018 financial year. However, a review of the assets register provided for audit verification indicated that the register was not completely updated with the details such as the nature of assets, acquisition date, cost, serial/title number and location, and hence it was not possible to ascertain from the register the total acquisition cost for each class of assets and legal status.

2058) Consequently, the completeness and accuracy of the summary of fixed assets register could not be confirmed.

Submission by the Accounting Officer

2059) The Accounting Officer admitted that by the time of audit review the asset register was not completely updated with details on acquisition cost of assets and hence the possibility of ascertaining the total acquisition cost for each class of assets could not be realized. He reported that the reclassification has now been done in conformity with the Annual Reporting Template for MDA's updated June 2018 based on IPSAS Cash Basis of Accounting as issued by the Public Sector Accounting Standards Board.

Committee Observations and Findings

2060) The Committee observed and found that:

1) The fixed assets register has since been submitted and verified; and
2) The Committee marked the matter as resolved.

Other Matter

765. Procurement of Construction and civil Works-Small Dams and Water pans.

2061) <u>It was observed that in its report on Examination of the Report of the Auditor General on the financial statements for National Government for the Year 2016/17, the Committee had recommended for a Special Audit on Small Dams and Water Pans. The matter was, therefore, put on hold awaiting conclusive report from the Office of the Auditor General.</u>

766. Poor Record Keeping on Imprests

It was observed that the paragraph was similar to Paragraph 765

767. Ineffective of Audit Committee

2062) The State Department for Irrigation constituted an audit committee during the year under review. However, the committee did not convene or hold regular meetings during the year contrary to the requirements under regulation 179 of the public Finance Management (National Government) Regulations, 2015

Submission by the Accounting Officer

2063) The Accounting Officer admitted that during the year under review the Audit committee was not yet established. The issue has since been addressed. The State Department has adopted the Ministerial Audit Committee.

Committee Observations and Findings

2064) The Committee observed and found that:
The Audit Committee had since been established; and

1) The Committee marked the matter as resolved.

23.0. STATE DEPARTMENT FOR ENVIRONMENT AND FORESTRY

FINANCIAL STATEMENTS FOR VOTE 1105

Dr. Chris Kiptoo, the Principal Secretary and Accounting Officer for the State Department of Environment(Vote 1105) appeared before the Committee on 24th of June, 2020 to adduce evidence on the Audited Financial Statements for the State Department of Environment (Vote 1105) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions abled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

3. Ms. Stella Aura - Director Kenya Meteorological Department
4. Mr. Rodmen Omari - Assistant Secretary
5. Mr. Remjius Okong'o - Principal Accountant
6. Mr. Donnie Muyera - Principal Supply Chain Management
7. Mr. Chitu Njeria - Principal Meteorologist

789. Accuracy, completeness and presentation of the Financial Statements

789.1 Comparative figures

2065) As previously reported, the financial statements of the State Department as at 30 June 2017 and 2018 reflected comparative figures that mirrored the closing balances of the defunct Ministry of Environment and Natural Resources. However, there was a separation in the financial year 2016/2017 separating the State Department of Natural Resources from the State Department of Environment. The effect and impact of the separation of the Ministry has not been considered in the comparative figures. Further, the comparative figures in the financial statements do not agree with the comparative balances of the audited financial statements.

Submission by the Accounting Officer

2066) The Accounting Officer submitted that: -

(i) The State Department for Environment was established by Executive Order No.2/2015 by splitting the then Ministry of Environment, Water and Natural Resources.

(ii) That the comparison was unavoidable during the financial year ended 30th June 2017 due to the fact that there existed a vote designated as State Department of Environment and Natural Resources. This therefore, implies that the basis for comparison during the year 2016/2017 would have been the previous votes against the state Department of Environment.

(iii) That the Financial Statements for the State Department as at 30th June 2017 & 2018 were both prepared under vote 1105 (State Department for Environment). The Comparative figures reflected in the Financial Statement as at 30th June 2018 were therefore fairly and correctly stated and does not mirror the closing balances of the defunct Ministry of Environment and Natural Resources.

(iv) The Ministry consulted the National Treasury on how to treat comparative figures in case of mergers and demergers in the future.

Committee Observations and Findings

2067) The Committee observed and found that:

1) The explanation given by the Accounting Officer to the accuracy of the comparative figures in the financial statement for the year under review was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2068) The Committee recommended that:

The matter be resolved.

789.2 Unsupported Prior Year Adjustment

2069) As previously reported, included in the financial statements under note 15 in 2016/17 financial year (and note 26 in the year under review) is an amount of KSh.146,183,034 and KSh.8,397,829 respectively described as prior year adjustments on receivables and bank account balances which have not been explained or supported. The adjustments could therefore not be verified as no information was provided for audit review.

2070) In view of the foregoing, it was not possible to confirm the accuracy and completeness of the financial statements for the year ended 30 June 2018.

Submission by the Accounting Officer

2071) The Accounting Officer submitted as follows: -

Analysis for KSh.146,183,034.00 which relates to the financial year 2016/2017 is as below:

Particulars		**Amount (KSh.)**
1	Government Imprest	4,604,988.00
2	Salary Advance	409,123.00
3	District Suspense	58,931,458.00
4	Recurrent Bank Balance	40,303,977.00
5	Development Bank Balance	41,604,291.00
6	Cash in hand	329,198.00
	Total	**146,183,034.00**

Analysis for KSh.8,397,829.00 which relates to FY 2017/2018 is as follows:

Particulars		Amount (KSh.)
1	Government Imprest	807,083.00
2	Prepayments	185,455.00
3	District Suspense	5,680,515.00
4	Recurrent bank balance	514,446.00
5	Development bank balance	1,210,330.00
	Total	**8,397,329.00**

Committee Observations and Findings

2072) The Committee observed and found that:

1) The explanation and documents given by the Accounting Officer to confirm the analysis and adjustments to the financial statements were verified and confirmed;
2) The schedules attached were also counter checked and confirmed correct by the Auditor General; and
3) The Committee marked the matter as resolved.

Committee Recommendations

2073) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

790. Fixed Assets

790.1 Fixed Assets Register

2074) During the year under review, assets worth KSh.577,379,181 were acquired. However, a summary of fixed assets register was neither annexed to the financial statements nor provided for audit review yet the State Department had various assets including land and buildings across the country as well as vehicles and other equipment of undetermined value. In addition, the fixed assets inherited by the State Department from the defunct Ministry of Environment and Natural Resources were not disclosed in the financial statements.

2075) In the absence of a fixed assets register, it has not been possible to confirm the accuracy of the fixed assets balance of KSh.577,379,181 and that fixed assets of the State Department are properly safeguarded.

Submission by the Accounting Officer

2076) The Accounting Officer submitted that the summary of Fixed Asset register has since been availed to the auditors for review. However, the register does not have values. The Ministry has also not been able to disclose in the financial statement any inherited fixed assets due to lack of values. The Ministry has been in consultation with the National Treasury who has since issued draft guidelines on Asset and Liability management in the public sector for Ministries, Departments and Agencies comments before final guidelines are issued. The Ministry intends to hire a consultant to undertake assets valuations. Terms of reference are being developed. Attached is a copy of our assets inventory.

Committee Observations and Findings

2077) The Committee observed and found that:

1) The Ministry had since received draft guidelines on management of assets and liabilities from Treasury and was currently evaluating the recommendations therein; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2078) The Committee recommended that:

1) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**
2) **Within nine months of the adoption of this Report, the Accounting Officer should avail to the Auditor General a comprehensive fixed asset register of the State Department for Environment and Forestry for review and verification.**

790.2 Loss of Government Vehicle

This matter was considered by the Committee in the report of 2016/2017.

791. Outstanding Imprest Understatement

2079) Management did not explain how District Suspense of KSh.5,680,515 in the financial statements for the prior year was cleared during the year under review. In the circumstances, it was not possible to confirm whether the accounts receivables balance of KSh.1,115,326 as at 30 June 2018 was fairly stated.

Submission by the Accounting Officer

2080) The Accounting Officer submitted that the amount of KSh.5,680,515.00 for District suspense were district AIE's for FY 2016/2017 which were not cleared during the financial year. The amount is analyzed as shown below:

District AIEs for 2016/2017			
	Development	**Recurrent**	**Totals**
Kangema County	0	1,208,895.00	**1,208,895.00**
Bungoma County	399,944.25	254,789.00	**654,733.25**
Kakamega County	0	789,944.80	**789,944.80**
Kisii County	0	234,566.95	**234,566.95**
Migori County	396,800.00	472,050.00	**868,850.00**
Isiolo County	399,850.00	472,475.00	**872,325.00**
Taita Taveta County	400,000.00	651,200.00	**1,051,200.00**
Total	**1,596,594.25**	**4,083,920.75**	**5,680,515.00**

The expenditure returns from the said districts were submitted and the same was cleared during the financial year under review as a prior year adjustment. The account receivable balance of KSh.1,115,326.00 as at 30th June 2018 is analyzed as follows: -

S/No.	Item	Amount
1.	Salary Advance	587,412.20
2.	Training Levy	325,613.55
3	Outstanding Imprest	202,300.00
	Total	**1,115,325.75**

Outstanding Imprest

S/No.	Item	Amount
1	Christian Juma Wekesa	68,100.00
2	Joshua Ogato Okemwa	134,200.00
	Total	**202,300.00**

The same were subsequently cleared.

Committee Observations and Findings

2081) The Committee observed and found that:

1) The expenditure returns from the counties were being submitted and the same are subsequently cleared during the financial year; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2082) The Committee recommended that:

The matter be resolved.

792. Pending Bills

2083) The pending bills amounting to KSh.1,088,900,069 chargeable to both recurrent and development votes for the State Department as at 30 June 2018 were not paid in the year under review but were instead carried forward to 2018/2019. Had those bills been paid and expenditure charged, the statement of receipt and payments would have reflected a deficit of KSh.1,087,825,452. Failure to settle the bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

Submission by the Accounting Officer

2084) The Accounting Officer submitted that the pending bills were occasioned by inadequate budget provision and budget rationalization. However, all pending bills were settled in the subsequent financial year 2018/2019.

Committee Observations and Findings

2085) The Committee observed and found that:

1) The pending bills were cleared following the presidential directive on clearance of all pending bills in the subsequent financial year 2018/2019; and
2) The Committee marked the matter as resolved.

Committee Recommendation

2086) The Committee recommended that:

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

793. Irregular Procurement and Payment – Construction of Embu County Office

2087) Kenya Meteorological Department engaged a local firm to construct a model county office in Embu in 2009 through requests for quotations method of procurement contrary to the provisions of the Public Procurement and Disposal Act, 2015. Further, the contract signed between the two parties was not provided for audit review. In addition, available information indicated that the contract sum of KSh.11,532,396 was irregularly varied upwards to KSh.14,548,499. As at the date of this report in March 2019, the project had stalled casting doubt as to whether the payments were a proper charge to public funds.

Submission by the Accounting Officer

2088) The Accounting Officer submitted that the project was approved by Project Implementation and Management Advisory Committee (PIMAC) of the Department of Public Works at an estimated cost of KSh.11,200,000

2089) The Procurement was tendered for by the Ministry of Public Works through open tender and not by request for quotation. Tenders for the project were advertised in the Daily Nation with tender submission/opening date being 28/01/2009. All the seven bidders who bought the tender documents returned them. Only two bidders who were responsive proceeded to financial analysis that is Jorafra General Building contractors and Corfard Contractors (K) ltd. Corfard Contractors (K) Ltd was awarded the tender as the 1st lowest technically evaluated bidder at a total contract sum of KSh.11,532,396 and the contract period was 28 weeks. A contract between KMD and the contractor was signed on 12th March 2009.

2090) In the financial year 2009/2010 the Kenya Meteorological Department was moved from Ministry of Transport to Ministry of Environment and Natural Resources following government reorganization. The Ministry experienced limited budgetary allocation which made it difficult to pay the contractor and for sometimes the project stalled while at 65% work completion.

2091) Several meetings were held to jumpstart the project. During a site meeting held on 21st March, 2012 chaired by the District Works officer/Clerks of works, the contractor was assured of regular payment of his certificates if he resumes work. The contractor requested for variation citing increase in cost of building materials considering that it was almost three years since he bidded for the work.

2092) The project was eventually completed at a total cost of KSh.14,548,899. According to the District Works officer, using the same contractor to complete the work was more economical than tendering the job a fresh. The delay in completion of the project was as a result of limited budgetary allocation of funds to the relevant vote head and not as a result of leniency by the supervisory team. The project has since been completed and the building fully occupied.

Committee Observations and Findings

2093) The Committee observed and found that:

1) The building was subsequently completed and currently hosts the meteorological Department in Embu; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2094) The Committee recommended that:

The matter be resolved.

Emphasis of Matter

794. Budget Analysis

794.1 Exchequer Releases and Revenue Shortfall

2095) During the year under review, the State Department received exchequer amounting to KSh.4,209,800,166 while the approved budget was KSh.4,651,564,886 resulting to a shortfall of KSh.441,764,720. Further, the State Department had budgeted to receive KSh.3,750,000 from the sale of assets whose actual receipt was KSh.1,750,000 resulting to a shortfall of KSh.2,000,000.

Submission by the Accounting Officer

2096) The Accounting Officer submitted that the revenue shortfall of KSh.489,489,911.00 was due to non-release of Exchequer issues from the National Treasury. However, the Ministry is in liaison with the National Treasury with a view of ensuring that all the

Exchequer releases are disbursed in good time. The Accounting Officer added that the Ministry only raised KSh.1,750,000.00 (A.I.A) Appropriation In Aid from sale of meteorological data but was not able to complete the sale of its obsolete and unserviceable assets. The process of disposal of obsolete and unserviceable assets is ongoing.

Committee Observations and Findings

2097) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to exchequer releases and revenue shortfall was satisfactory; and
2) The Committee marked the matter as resolved.

794.2 Expenditure Budget Analysis

2098) During the year under review, the State Department had a low absorption of the approved budget on the following items:

Expenditure Item	**Approved Budget KSh.**	**Actual Expenditure KSh.**	**Under Expenditure KSh.**
Use of goods and services	581,189,895.00	434,650,661.00	146,539,234.00
Transfers to other Government Units	2,389,711,960.00	2,135,837,390.00	253,874,570.00
Other Grants and Transfers	43,905,040.00	28,534,691.00	15,370,350.00
Acquisition of Assets	631,467,991.00	577,379,181.00	54,088,810.00

Submission by the Accounting Officer

2099) The Accounting Officer submitted that the low absorption was as a result of non-release of exchequer by the National Treasury and non-realization of AIA. The absorption rate was at 90%.

Committee Observations and Findings

2100) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to expenditure budget analysis was satisfactory; and
2) The Committee marked the matter as resolved.

2101) <u>The Committee observed that Paragraph 795 to 796 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory</u>

24.0. STATE DEPARTMENT FOR NATURAL RESOURCES

FINANCIAL STATEMENTS FOR VOTE 1106

Prof. Fred Segor, the Principal Secretary and Accounting Officer for the State Department of Natural Resources (Vote 1106) appeared before the Committee on 19th May 2020 to adduce evidence on the Audited Financial Statements for the State Department of Natural Resources(Vote 1106) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Tom M. Odundo - Assistant Accountant General
2. Dr. Erastus Kanga - Director Wildlife Partnership & Co-existence
3. Mr. John Gicaci - Chief Finance Officer

814. Pending Bills

2102) The pending bills amounting to KSh.33,812,512 chargeable to both recurrent and development votes for the State Department as at 30 June 2018 were not paid in the financial year 2017/2018 but were instead carried forward to 2018/2019. Had those bills been paid and expenditure charged, the statement of receipts and payments would have reflected a deficit of KSh.16,352,011. Failure to settle the bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

Submission by the Accounting Officer

2103) The Accounting Officer admitted that there were pending bills amounting to KSh.33,812,512.00 chargeable to recurrent and development accounts. The pending bills were occasioned by unfunded exchequer requisition from The National Treasury. The pending bills amounting to KSh.33,812,512.00 were later paid in the subsequent financial year 2018/2019.

Committee Observations and Findings

2104) The Committee observed and found that:

1) The pending bills were not cleared on or before 30 June 2018;
2) The Accounting Officer had settled and cleared the pending bills as it was verified and confirmed by the Office of the Auditor General;
3) The Committee marked the matter as resolved.

Committee Recommendations

2105) The Committee Recommended that:

1) The matter be resolved.

815. Inadequate Support of Fund Balance

2106) Fund balance in the financial statements consisted of bank accounts, cash in hand, receivables- outstanding imprests and deposits amounting to KSh.12,445,187.00 However, bank statements were not provided for audit verification and it was therefore not possible to confirm the bank balances and the accuracy of the fund balance of KSh.12,445,187.00 as at 30 June 2018.

Submission by the Accounting Officer

2107) The Accounting Officer admitted that fund balances in the financial statements for the financial year 2017/2018 had an amount of KSh.12,445,187.00 This amount relates to the closing balances for the financial year 2016/2017 which were the opening balances for the year 2017/2018 consisting of bank balances, cash in hand, receivables and payables analyzed as below;

i) Bank balances KSh.11,926,625.00

2108) This amount constitute the bank balances in the various Accounts held by the State Department for Natural Resources during the financial period 2017/2018 as per Board of survey reports and Bank Reconciliation statements.

ii) Cash in hand KSh.15,650.00

2109) The cash in hand amounted to KSh.15,649.65 as per the attached copy of Board of survey report and Cash book.

iii) Accounts Receivables KSh.2,000,800.00

2110) The Accounts receivables constituted outstanding imprests as at close and submission of the financial statements for the financial year 2017/2018. The Imprest have since been surrendered as shown in the analysis.

vi) Accounts Payables KSh.1,497,888.00

2111) The Accounts payable as per the financial statements relates to retention fees of KSh.1,197,888.40 recovered from contractors and held by the state departments pending the contract defects liability period of six (6) months and KSh.300,000.00 deposit by National Commission for Science, Technology and Innovation to support the UN/Kenya conference on Space Technology. This amounts has since been paid.

Committee Observations and Findings

2112) The Committee observed and found that:

1) The Accounting Officer had provided the Bank Statements as it was verified and confirmed by the Office of the Auditor General; and
2) The matter was marked as resolved.

Committee Recommendations

2113) The Committee recommended that:

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

2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**

816. Unsupported Prior Year Adjustment

2114) Reported in the notes to financial statements are prior year adjustments amounting to KSh.3,355,800.00. However, documents in support of the adjustments were not availed for the audit verification.

Submission by the Accounting Officer

2115) The Accounting Officer admitted that the financial statements for the financial year 2017/2018 had prior year adjustments amounting to KSh.3, 355,800.00. This amount relates to Accounts Receivable (Outstanding imprests) of KSh.2,000,800.00 and an imprest amount of KSh.1,355,000.00 paid to Mr. S. Kingoo and charged to development expenditure but was wrongly posted to the Recurrent Cash book while paid through the development bank account. This error was later corrected by debiting the recurrent cashbook and crediting the development cashbook

Committee Observations and Findings

2116) The Committee observed and found that:
1) The Accounting Officer eventually provided documents in support of prior year adjustments after the audit period; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2117) The Committee recommended that:
1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**

817. PRIOR YEAR MATTERS

817.1 Variance Between Notes to the Financial Statements and Notes as Per IFMIS Report

2118) As reported in the prior year, it is a requirement that all the figures in the financial statements be expounded by way of notes. The financial statements and notes to the financial statements were presented together by 30th September 2017. However, it was noted that two sets of notes in support of financial statements had variances as analyzed below:

Item	Note as per Financial Statements	Notes as per IFMIS/IFMIS Statements	Amounts per Notes in the Financial Statements KSh.	Amount as per IFMIS Notes Attached in the Financial Statements KSh.	Variance KSh.
Use of goods and Services	4	13	402,337,553	404,416,175	(2,078,622)
Accounts Receivable – Outstanding Imprests	9	23	2,000,800	2,998,045	(997,245)
Accounts Payable	10	24	1,497,888	3,996,960,185	(3,995,462,297)
Bank Balances	8A	22A	11,926,625	3,973,398,962	(3,961,472,337)
Cash in Hand	8B	22B	15,650	7,821,008,767	(7,820,993,117)
Surplus for the Year			12,445,186	10,366,565	2,078,621

2119) The reason given for these variances was that the State Department's cash book is still being reconciled in co-ordination with the Treasury's IFMIS team and the Financial Reporting Unit.

Submission by the Accounting Officer

2120) The Accounting Officer admitted that notes as per financial statements and notes as per IFMIS system had variances in use of goods and services, accounts receivable-outstanding imprests, accounts payables, bank balances, cash in hand and surplus for the year that were occasioned by systems challenges with the cash management module that includes:

(i) Missing online bank statements
(ii) Creation of system acquired liabilities
(iii) Missing transactions when bank statement is loaded.
(iv) Loading of statements that do not belong to the state Department.

2121) The IFMIS Department has continued to address these challenges with the aim of reconciling these differences.

Committee Observations and Findings

2122) The Committee observed and found that:

1) The explanatory notes in the Financial Statements and Notes as Per IFMIS Report were not in agreement;
2) The Financial Statements and Notes as Per IFMIS Report were not reconciled; and
3) The matter therefore remained unresolved.

Committee Recommendations

2123) The Committee recommended that:

1) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
4) **Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
5) **Accounting Officer must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

817.2 Undisclosed Prior Year Comparative Figures

2124) As previously reported, comparative figures for 2015/2016 for the then Ministry for Environment and Natural Resources were not separated or re-stated to reflect what belongs to the State Department for Environment and State Department for Natural Resources. Hence, the State Department for Natural Resources reported nil balances in the comparative year 2015/2016. In view of the foregoing, the accuracy, completeness and presentation of the financial statements as at 30 June 2017 could not be ascertained.

2125) In view of the above, the accuracy, completeness and presentation of the financial statements as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2126) The Accounting Officer admitted that no comparative figures were given for the financial period 2015/2016. This is because the state department never existed as a vote in the financial year 2015/2016.The State Department for natural Resources existed as a department under Vote 1101 -State Department for Environment and Natural Resources.

Committee Observations and Findings

2127) The Committee observed and found that:

1) The comparative figures for the then Ministry of Environment and Natural Resources were not separated or reinstated to reflect the correct position on time;
2) The matter therefore remained unresolved.

Committee Recommendations

2128) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
4) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
5) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

Emphasis of Matter

818. Unverifiable Value of Assets

2129) Annex 2 to the financial statements is a summary of fixed assets totaling KSh.297,357,773. However, audit review of the State Department's records revealed that accurate data for the assets of the department was not prepared since after the reorganization of the Ministry of Environment and Natural Resources to have two separate entities (State Department for Environment and State Department for Natural Resources) the vesting of the assets to the two entities was not done. In the circumstances, it was not possible to confirm the value of the assets relating to the State Department.

Submission by the Accounting Officer

2130) The Accounting Officer admitted that handing over, taking over of assets and liabilities was not properly done. However, the specific officers who were in-charge of physical and financial assets and liabilities diligently oversaw the transition in a manner that no assets got lost or misused. Forest conservation and Wildlife Conservation Directorates retained their unique operational identities until the time when State department for Natural Resources and State Department for Environment separated.

2131) The asset register has been compiled and the value of assets included based on the cost of acquisition since the records are available from the stores S3 cards. However, tagging and valuation of equipment and furniture both procured by the state department and that inherited from the previous Ministry has not been done. The state Department is in the Process of constituting a committee to oversee the Vesting of assets in order to facilitate tagging.

Committee Observations and Findings

2132) The Committee observed and found that:

1) The Assets Register had been improved and updated to the required standard;
2) The Assets Register was reported under the financial statements for the Kenya Wildlife Services; and
3) The Committee marked the matter as resolved.

Committee Recommendations

2133) The Committee recommended that:

1) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

819. Projected Compensation Claims on Human Wildlife Conflict

2134) Note 13.2 to the financial statements indicates that there are a total of 15,382 cases pending on human wildlife conflict for the years 2014 to 2017. It is estimated that the claims for compensation to the affected individuals amounts to KSh.6,969,515,712. The original budget for compensation in the year under review was KSh.630 million but was later reduced to KSh.153 million through a supplementary budget. However, the State Department received KSh.150 million which was transferred to KWS to compensate the claimants.

2135) However, 2018 cases are still being evaluated. In the circumstances, the Department is at a high risk of facing litigation claims due to the pending compensation claims.

Submission by the Accounting Officer

2136) The Accounting Officer submitted that from the initial reported 15,392 compensation claims, 592 claims were dropped due to double entries among other reasons, after thorough cleaning of the Human Wildlife Conflict Compensation database for the period 2014 to 2017, leaving a total of 14,790 claims for considerations.

2137) Out of the 14,790 claims, 351 and 909 were deferred and rejected by the County Wildlife Conservation and Compensation Committees (CWCCC) respectively, leaving a total of 13,530 claims in the database for examination by Ministerial Wildlife Conservation and Compensation Committee(MWCCC).

2138) Upon the examination by the MWCCC, 405 claims were dropped for various reasons listed below, leaving only 13,125 claims that the MWCCC examined and recommended. The previous MWCCC had deliberated on some claims (eliminated double repeat entries). Some claims had been deliberated on by CWCCC after the lapse of their tenure (returned back to Secretariat). Some claims had not been endorsed by the respective CWCCC (returned back to secretariat). Some claims had not been submitted from the County Warden Office (Secretary to CWCCC). Some claims had been deferred by the CWCCCs. Some claims had not been discussed by CWCCC.

2139) Out of these 13,125 HWC compensation claims the Ministry approved 4,752 claims worth KSh.1,553,000,000.00 and during the last two years have made payments to the tune of KSh.856,000,000.00 (KSh.439,000,000.00 2018/2019 and KSh.417,000,000.00 2019/2020 and KSh.152,000,000.00 to be remitted in quarter 4)out of the total approved claims leaving a balance of KSh.545,000,000.00 due to approved claimants. The State Department has made a budgetary request of KSh.569,000,000.00 in the financial year 2020/2021 to clear the outstanding claims.

Key Audit Matters

2140) Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the State Department's financial statements. These matters were addressed in the context of the audit of the State Department's financial statements and in forming my opinion thereon, and I do not provide a separate opinion on these matters. For each matter below, a description of how the audit addressed the matter is provided in that context. I have fulfilled the responsibilities described in the Auditor's Responsibilities for the Audit section of the report, including in relation to these matters. Accordingly, the audit included the performance of procedures designed to respond to the assessment of the risks of material misstatement of the financial statements. The results of the audit procedures, including the procedures performed to address the matters below, provide the basis for my audit opinion on the accompanying financial statements.

No		Key Audit Matter	How the Audit addressed the key Audit Matter
1.		Transfers to other Government Agencies	
		The mandate of the state department included	Reviewed the mandate and the strategic plan of the state

		conservation and management of forests, wildlife and biodiversity resources. The objective was achieved through semiautonomous government agencies. During the year under audit, Transfers were made to the agencies and other grants amounting to KSh.7,572,629,070 and KSh.14,019,846 respectively	department Reviewed the approved budget for provisions for transfers to other government agencies Verification of exchequer notifications for details on the transfers Verified confirmations from the receiving government agencies Verification on the disclosures related to grants and other transfers
No		Key Audit Matter	How the Audit addressed the key Audit Matter
2.		Compensation Claims by Individuals on Human Wildlife Conflict	
		Falling under the mandate of the state department for natural resources is the wildlife resources management and policy formulation. During the year under review claims against the government of Kenya by individuals arising from wildlife human conflict were projected to be about KSh.4.2 Billion. Original budget for compensation on claims and administration of the same was set at KSh.630 million. However the figure was revised downwards to KSh.153 million.	Verification of the mandate of the state department as far as wildlife resource management is concerned Reviewed data held at the state department regarding wildlife human conflict Verification of the budgetary provision for compensations and adequacy of the budget Reviewed historical records on claims
3		Fixed Assets Management	
		The statement of receipts and payments reflects acquisition of assets figure of KSh.15,249,827 and brought forward figure of KSh.282,107,946 and Annex 2 (summary of fixed assets register) discloses a figure of KSh.297,357,773.	Verification of the asset register for status Verification assets ownership Verification of the assets valuation/measurement

2141) The Ministry of Tourism and Wildlife would like to make the following clarifications on note 13.2:

i) From the initial reported 15,392 compensation claims, 592 claims were dropped due to double entries among other reasons, after thorough cleaning of the Human Wildlife Conflict Compensation database for the period 2014 to 2017, leaving a total of 14,790 claims for considerations.
ii) Out of the 14,790 claims, 351 and 909 were deferred and rejected by the County Wildlife Conservation and Compensation Committees (CWCCC) respectively, leaving a total of 13,530 claims in the database for examination by Ministerial Wildlife Conservation and Compensation Committee(MWCCC)
iii) Upon the examination by the MWCCC, 405 claims were dropped for various reasons listed below, leaving only 13,125 claims that the MWCCC examined and recommended.
    a) The previous MWCCC had deliberated on some claims (eliminated double repeat entries)
    b) Some claims had been deliberated on by CWCCC after the lapse of their tenure (returned back to Secretariat)
    c) Some claims had not been endorsed by the respective CWCCC (returned back to secretariat)
    d) Some claims had not been submitted from the County Warden Office (Secretary to CWCCC)
    e) Some claims had been deferred by the CWCCCs
    f) Some claims had not been discussed by CWCCC

2142) Out of these 13,125 HWC compensation claims the Ministry approved 4,752 claims worth KSh.1,553,000,000.00, deferred 4,722 claims due to lack of documentation and appropriate narratives worth KSh.1,859,000,000.00, and rejected 3,651 claims because they did not meet the required threshold worth KSh.1,506,000,000.00. During the last two years payments to the tune of KSh.856,000,000.00 (KSh.439,000,000.00 2018/2019 and KSh.417,000,000.00 2019/2020 and KSh.152,000,000.00 to be remitted in quarter 4) out of the total approved claims leaving a balance of KSh.545,000,000.00 due to approved claimants. We have made a budgetary request of KSh.569, 000,000.00 in the financial year 2020/2021 to clear the outstanding claims.

Committee Observations and Findings

2143) The Committee observed and found that:

1) The compensations were not in line provisions of the Wildlife Conservation and Management Act 2013 as they disregarded recommendations of the County Wildlife Conservation and Compensation Committees;
2) The compensations had taken so long to be settled since 2014; and
3) The matter therefore remained unresolved.

Committee Recommendations

2144) The Committee recommended that:

1) **The Accounting Officer should ensure that all compensations made are within the provisions of the Wildlife Conservation and Management Act 2013 and the recommendations of the County Wildlife Conservation and Compensation Committees.**
2) **Within three months of tabling and adoption of this report, the Accounting Officer should ensure that the Projected Compensation Claims on Human Wildlife Conflict are completed in line with the Wildlife Conservation and Management Act 2013 and the recommendations of the County Wildlife Conservation and Compensation Committees and submit a report of the same to the National Assembly.**

2145) <u>The Committee observed that Paragraph 820 to 821 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

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REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

Other Matter

839. Under-Absorption of the Project Budget

2146) During the year under review, the Northern Kenya Conservation Project had budgeted to receive KSh.553,367,191.00 However, only KSh.376,798,433 was received resulting to underfunding of KSh.176,568,758.00 Further, the expenditure for the period was KSh.224,778,449.00 resulting in under-absorption of KSh.152,019,984.00 In view of the foregoing, the Project may not have achieved its planned and budgeted activities and its objectives for the year under review.

2147) <u>The Committee observed that Paragraph 840 and 841 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

25.0. MINISTRY OF LANDS AND PHYSICAL PLANNING

FINANCIAL STATEMENTS FOR VOTE 1112

Dr. Nicholas Muraguri, the Principal Secretary and Accounting Officer for the Ministry of lands and Physical Planning(Vote 1112) appeared before the Committee on 17th and 18th August 2020 to adduce evidence on the Audited Financial Statements for the Ministry of lands and Physical Planning(Vote 1112) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Stephen Njue - Senior Chief Finance Officer**
2. **Ms. Jane W. Mburu - Principal Accountant**
3. **Mr. Julius Kimbio - Accountant**

Basis for Adverse Opinion

849. Inaccuracies in the Financial Statements

2148) The following discrepancies were noted between the figures in the financial statements:

Item Description	**Balance in the Financial Statements Ksh.)**	**Balance in the Trial Balance**	**Difference (Ksh.)**
Recurrent bank account	1,981,923	1,850,997,643	1,849,015,720
Development bank account	1,941,231	2,629,063,120	2,627,121,889
Deposits bank account	197,263,116	34,881,306	(162,381,810)
Cash in hand	201,038	8,222,208,932	8,222,007,894
Domestic debtors and advances	308,748	313,726	4,978
Imprests	6,447,907	6,489,907	42,000
Other current assets	-	17,153,153	17,153,153
Deposits	-	6,559,229	6,559,229
Deposits	197,263,116	263,971,798	66,708,682
Other liabilities	-	2,604,481	2,604,481
Other liabilities	-	34,596,207	34,596,207
System required liabilities a/c	-	3,022,582	3,022,582
System required liabilities a/c	-	3,430,789,800	3,430,789,800

2149) In the circumstances, the accuracy of the financial statements for the year ended 30th June, 2018 could not be confirmed.

Submission by the Accounting Officer

2150) The Accounting Officer submitted that it was true that there were discrepancies between the financial statement and trial balance figures. This was due to the electronic bank reconciliation module not being fully operational and integrated with the Central Bank of Kenya then. This variance was caused by missing bank statements.

2151) However, the Ministry is working hand in hand with the National Treasury IFMIS department to improve the IFMIS Bank reconciliation to ensure accurate reporting in coming periods. A copy of the current trial balance showing tremendous progress of the figures reported was attached for perusal by the Committee.

Committee Observations and Findings

2152) The Committee observed and found that:

1) The reconciliation of the IFMIS figures was still work in progress at the Ministry;
2) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure the Ministry prepares accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts; and
3) The matter therefore remained unresolved.

Committee Recommendations

2153) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The Cabinet Secretary of the National Treasury should reprimand the Accounting Officer for Lands and Physical Planning for breach of Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure the Ministry prepares accurate and complete revenue statements that conform to Regulation 97 on the basic structure of government accounts.**

850. Purchase of Vehicles and other Transport Equipment

2154) The statement of receipts and payments for the year ended 30th June 2018 in acquisition of assets amounting to KSh.1,256, 719,593. Included in this figure is purchase of vehicles and other transport equipment of KSh.84,346,340 and KSh.1,396,350 is in respect of motor vehicle repairs which ought to have been classified under routine maintenance-vehicles and other transport equipment. Under the circumstances, the accuracy of purchase of vehicles and other transport equipment of KSh.84,346,340 could not be confirmed for the year ended 30th June, 2018.

Submission by the Accounting Officer

2155) The Accounting Officer submitted that it was true that the Statement of Receipts and payments for the year ended 30th June, 2018 indicated an amount of KSh.1,256,719,593. It is also true that included in this amount is KSh.84,346,340 and KSh.1,396,350 is in respect of motor vehicle repairs which ought to have been classified under routine maintenance of vehicles and other transport equipment. On this matter, the Accounting Officer commented as follows:

i. These anomalies are highly regrettable.
ii. That this Ministry has since then ensured that all expenditures are charged to the correct and relevant accounts.
iii. Pursuant to the above, errors of commission and omission have not occurred since then.

Committee Observations and Findings

2156) The Committee observed and found that:

1) The explanation by the Accounting Officer as to why the amount was charged under the item of purchase of vehicles and other transport equipment was satisfactory;
2) Pursuant to Regulation 97 (3) as read together with Regulation 97 (1) of the PFM (National Government) Regulations 2015, the Accounting Officer failed to reclassify the purchase of vehicles under road maintenance within one month after the close of the financial year; and
3) The Committee marked the matter as resolved.

851. Bank Balance

2157) The financial statements reflects bank balance of KSh.201,186,270 as at 30th June 2018. However, the bank confirmation certificates for the three bank accounts as at 30th June 2018 were not provided. In addition, the clearance status of the reconciling balances listed below was not provided for audit verification.

Description	**Recurrent (KSh.)**	**Development (KSh.)**	**Deposit (KSh.)**
Payments in cashbook not in bank	509,672	396,704.15	-
Receipts in bank not in cashbook	1,470,561	-	455,933
Payments in bank not in cashbook	2,449,684	2,539,300	287,500
Receipts in cashbook not bank	864,377	-	708,780
Total	**5,294,294**	**2,936,004.15**	**1,452,213**

2158) Further, cheques totaling KSh.285,776 for the recurrent account and KSh.280,604 for the development account were stale as at 30th June, 2018 and had not been reversed in the cash books. In the circumstances, the accuracy of bank balance of KSh.201,186,270 as at 30th June 2018 could not be confirmed.

Submission by the Accounting Officer

2159) The Accounting Officer submitted that it was true that the bank confirmation certificates had not been provided but have since been provided. Further, the management confirmed that the reconciling balances have been adjusted and the bank reconciliation statement was attached for perusal by the Committee.

Committee Observations and Findings

2160) The Committee observed and found that:

1) The bank balance of KSh.201,186,270 had been reconciled, reviewed and verified by the Auditor General in the year 2018/2019;
2) The failure by the Accounting Officer to provide bank confirmation certificates for the three bank accounts, was an offence of financial misconduct as defined in

Section 197 (1) (k) of the PFM Act, 2012; and
3) The Committee marked the matter as resolved.

Committee Recommendation

2161) The Committee recommended that:

The matter be resolved.

852. Accounts Receivable – Outstanding Imprests

2162) Note 10 to the Financial Statement reflects accounts receivable of KSh.9,606,874 as at 30th June 2018. Included in this amount are outstanding Imprests of KSh.6,447,907 out of which KSh.6,025,607.25 are long outstanding Imprests for more than one year. In addition, an extract of IFMIS register reflected total Imprests outstanding of KSh.12,141,952 while the financial statements reflected KSh.6,447,907 resulting in unexplained difference of KSh.4,162,198 as at 30th June 2018. The Ministry did also not adhere to imprest controls on issue of multiple Imprests since various officers were issued with more imprest before surrendering the previous ones. Consequently, the accuracy and recoverability of accounts receivable-outstanding imprests balance of KSh.9,606,874 reflected in the financial statements could not be confirmed.

Submission by the Accounting Officer

2163) The Accounting Officer submitted that the Ministry confirmed that this figure has since been cleared. However, this issue mostly arise where officers have submitted the surrender documents but they have not been processed up to the final state in the IFMIS System hence the status of outstanding imprest. Consequently, stringent measures have been put in place to ensure that only one imprest is issued to an officer.

Committee Observations and Findings

2164) The Committee observed and found that:

1) The Accounting Officer failed to recover the outstanding imprests within the required times pursuant to Regulation 91 (6) of the Public Finance Management-National Government Regulations 2015;
2) The Accounting Officer did not adhere to imprest controls on issue of multiple imprests since various officers were issued with more imprest before surrendering the previous ones which was contrary to section 91 (8) of the Public Finance Management-National Government Regulations 2015;
3) The Accounting Officer had developed stringent measures to ensure that only one imprest was issued to an officer going forward; and
4) The Committee marked the matter as resolved.

853. Compensation of Employees

2165) The statement of receipts and payments reflects compensation of employee's amount of KSh.2, 029,350,270. However, this amount exclude compensation of employee's expenditure amounting to KSh.29, 341,555 paid but charged to other expenditure items. Consequently, the accuracy of compensation of employee's expense of KSh.2, 029,350,270 for the year ended 30 June 2018 cannot be confirmed.

Submission by the Accounting Officer

2166) The Accounting Officer submitted that it was true that the statement of receipts and payments reflects KSh.2,029, 350,270 as compensation to employees excludes KSh.29, 341,555 paid but charged to other expenditure items. Even though the Ministry had adequately budgeted for Personnel Emoluments for the Financial Year 2017/2018, during the year, new appointments were done in the last quarter of the year whose contracts carried personal benefits not previously budgeted for. Thus, the Personal Emoluments budget was fully exhausted and it was not possible to carry over salary items as unpaid since the payments of salary also includes statutory deductions payable to third parties including Kenya Revenue Authority thus exposing the Ministry to penalties in the event of delayed payments. The Ministry had requested for additional funding which was however not granted.

Committee Observations and Findings

2167) The Committee observed and found that:

1) The amount of KSh.2,029,350,270 being compensation of employees excluded related expenditure amounting to KSh.29,341,555 paid to employees but charged to other expenditure items;
2) The explanation given by the Accounting Officer was satisfactory; and
3) The Committee marked the matter as resolved.

854. Research, Studies, Project Preparation, Design and Supervision

2168) The statement of receipts and payments reflected a figure of KSh.1,256,719,593 relating to acquisition of assets which included research, studies, project preparation, design and supervision expenditure of KSh.621,224,359. The balance included payments totaling KSh.8,613,960 in respect of claims for refund of per diem and expenses incurred on the 4th joint Kenya-Ethiopia boundaries pillars inspection and maintenance conducted in April/May 2017 for 30 days. The exercise was carried out in the previous financial year but reimbursements were done in January 2018. Approval for the team members to conduct the exercise without per diem and refunded later has not been availed for audit review. It was not clear on what basis the activities were allowed to be undertaken in the absence of funds.

Submission by the Accounting Officer

2169) The Accounting Officer submitted as follows:

i. That the 4th Joint Kenya-Ethiopia Boundaries Pillar Inspection and Maintenance was a joint exercise between the Kenya and Ethiopian Government which was critical and urgent.
ii. That the Ethiopian counter-parts were ready on the ground waiting for the Ministry's officers for the exercise.
iii. That in the circumstances, the matter became an emergency and that our officers had to be dispatched with immediate effect even before the confirmation of availability of funds.
iv. That the omission is highly regrettable and since then, the Ministry has endeavored to plan such activities/programs within the budgetary provisions.

Committee Observations and Findings

2170) The Committee observed and found that:

1) The research, studies, project preparation, design and supervision expenditure included payments totaling KSh.8,613,960 in respect of claims for refund of per diem and expenses for exercise which was carried out in the previous financial year but payments for reimbursement done in January 2018;
2) The approval for the team members to conduct the exercise without per diem and refunded later had not been availed for audit review in breach of Section 197 (1) (k) of the PFM Act, 2012;
3) The explanation given by the Accounting Officer was persuasive; and
4) The Committee marked the matter as resolved.

855. Pending Bills

855.1 Pending Bills in the Financial Statements

2171) The Ministry reported pending bills of KSh.299,109,118 and which were not settled as at 30th June 2018 but were carried forward to 2018/2019.Had the bills been paid and the expenditure charged to the respective accounts in 2017/2018, the statement of receipts and payments for the year would have reflected a deficit of KSh.293,732,682 instead of the reflected surplus of KSh.5,376,436 now shown.

Submission by the Accounting Officer

2172) The Accounting Officer submitted that it was true that pending bills amounting to KSh.299,109,118 were not settled. This was due to lack exchequer funding. Further, the Ministry wishes to state that, had the bills been paid, the receipts and payments would still have reflected a surplus since the bills would have been paid within approved budget.

Committee Observations and Findings

2173) The Committee observed and found that:

1) The Ministry reported total pending bills of KSh.299,109,118 as at 30 June 2018, which were not settled but were carried forward to 2018/2019;
2) The pending bills had been settled and cleared and the list was provided and confirmed by the Auditor General; and
3) The Committee marked the matter as resolved.

855.2 Payment of Undisclosed Pending bills

2174) The Ministry's audited financial statements for the financial year 2016/2017 disclosed pending bills of KSh.363,922,055.51. However, during the financial year under review, the Ministry made payments totaling KSh.159,885,022 that related to goods and services delivered and invoiced in the previous year but were not disclosed as pending bills in 2016/2017. As a result, the source of the pending bills could not be established, and the regularity of the expenditure could not be ascertained.

Submission by the Accounting Officer

2175) The Accounting Officer submitted that Pending Bills of KSh.363, 922,055.51 relate to bills that had been fully processed in the Accounts Payable module and were awaiting funding by the exchequer.

2176) The Ministry noted this gap and since then, bills that remain unpaid are forwarded to the procurement section for consolidation to enable full disclosure. Further, the Ministry wishes to state that all pending bills were subjected to verification and validation before payment.

Committee Observations and Findings

2177) The Committee observed and found that:

1) During the financial year under review, the Ministry made payments totaling to KSh.159,885,022 that related to goods and services delivered and invoiced in the previous year but were not disclosed as pending bills in 2016/2017;
2) The explanation given by the Accounting Officer was persuasive and list of the said pending bills was provided and confirmed; and
3) The Committee marked the matter as resolved.

Committee Recommendations

2178) The Committee recommended that:

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

855.3 Undisclosed Pending Bills-Legal

855.3.1 Legal

2179) In 2017/2018 financial year, the Ministry had legal pending bills amounting to KSh.946,508,404 for cases determined against the Ministry. However, the claims were not disclosed in the financial statements and no budgetary provision were made to settle them.

Submission by the Accounting Officer

2180) The Accounting Officer submitted that it was true that the Ministry had court awards on legal matters amounting to KSh.946,508,404 in the year 2017/2018. The Ministry would wish to state that there was no budgetary provision to settle the court awards. Further, these bills were historical and the Ministry was in consultation with State Law office regarding their eventual settlement.

2181) The Ministry has since then ensured that all pending bills are attached as an Annex to the Financial Statements and that adequate budgetary provisions are made in consultation with the National Treasury to settle these outstanding bills.

Committee Observations and Findings

2182) The Committee observed and found that:

1) The Ministry had legal pending bills amounting to KSh.946,508,404 and no budgetary provision was made to settle them;
2) The Accounting Officer had not provided the status of the consultation between the Ministry and the State Law Office on these pending bills; and
3) The matter therefore remained unresolved.

Committee Recommendations

2183) The Committee recommended that:

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

855.3.2 Arrears for Land Board Members

2184) Review of payments to land board members in Machakos, Kwale and Nyeri, revealed that allowances amounting to KSh.11,364,000 had not been paid.The arrears were not disclosed in the Ministry’s financial statements as pending bills. Consequently, the accuracy of the pending bills figure of KSh.299, 109,118 as disclosed at note 15.1 of the financial statements could not be confirmed.

Submission by the Accounting Officer

2185) The Accounting Officer submitted that it was true that Land Board Members arrears from several land registries were not recognized as Pending Bills in the Financial Statements. The Ministry has noted the omission and has communicated with all Land Registries to forward all pending payments in respect of Land Control Boards within the financial year. The Ministry would also wish to state the land board arrears have since been paid.

Committee Observations and Findings

2186) The Committee observed and found that:

1) The payments to Land Board Members for Machakos, Kwale and Nyeri, amounting to KSh.11,364,000 which were in arrears were not disclosed in the financial statements as pending bills;
2) The explanation given by the Accounting Officer with regard to the arrears for Land Board Members was satisfactory. A list of the said Board Members was provided with compensation rates for each; and
3) The Committee marked the matter as resolved.

Committee Recommendation

2187) The Committee recommended that:

The matter be resolved.

856. Summary of Fixed Assets

2188) The financial statements for the year ended 30th June 2018 does not include a summary of fixed assets register as an annex contrary to the prescribed reporting template as issued by Public Sector Accounting Standards Board of the National Treasury. In addition the Ministry did not maintain an assets register in spite of the fact that assets worth KSh.1, 256,719,593 were acquired in the year under review. Consequently, the financial statements were not in compliance with Section 143 of Public Finance Management (National Government) Regulations, 2015.

Submission by the Accounting Officer

2189) The Accounting Officer submitted that it was true that the Financial Statement did not include a summary of fixed assets as an annex contrary to the reporting template. On the matter the Accounting Officer offered the following explanations:

i. That the Ministry has since prepared a Fixed Asset Register.
ii. That the Asset Register has indicated the Ministry's Assets which are valued.
iii. That this Register is updated from time to time as and when it is necessary.

Committee Observations and Findings

2190) The Committee observed and found that:

1) The Accounting Officer did not include a summary of fixed assets register as an annex to the financial statements for the year ended 30 June 2018 contrary to the prescribed reporting template;
2) In this regard, the Accounting Officer failed to maintain a complete fixed asset register in breach of Regulation 143(1) of the PFM (National Government) Regulations 2015 and exposure of public assets to fraud in violation of Section 194(5) of the PFM Act 2012;
3) However, the matter was addressed in the 2018/2019 financial statements which includes the asset register; and
4) The Committee marked the matter as resolved.

Committee Recommendations

2191) The Committee recommended that:

The matter be resolved.

857. Other Operating Expenses

857.1 Interest on delayed payment of legal claims

2192) Other operating expenses in Note 4 to the Financial Statements total to KSh.741,048,982 reflected at Note 4 to the financial statement includes KSh.13,839,467 relating to interest on legal claims. The interest was as a result of delay by the Ministry in paying the decretal sums for various cases against the principles of public finance on prudence and responsible use of Public money as required by Article 201 (d) of the Constitution of Kenya.

Submission by the Accounting Officer

2193) The Accounting Officer submitted that it was true that interests on delayed payment of legal claims KSh.13, 839,467 were paid. The delay in payment of Interests was occasioned by budgetary constraints. In this regard, the Ministry is committed to ensure prompt processing of legal claims to avoid accruing of interests. List of the cases that had accrued interest due to delay in payment is shown below: -

Case Reference	**Date of Judgement**	**Decretal Sum (Ksh.)**	**Interest (Ksh.)**	**Remarks**
HCC No. 130 of 2005 Robert W. Mutahi –Vs- Attorney General	9 June 2014	4,922,163.00	1,364,180.00	Interest from 10 June 2014 up to 30 September 2016
Nairobi Petition No.	21 October	10,500,00.00	12,075,287.00	Interest accrued at

758Kariuki Kimani suing through James Thuo Kariuki –Vs- Commissioner of Lands & Attorney General	2010			12% from 26thJanuary 2011 to 26th November 2017
HC ELC No. 961 of 2012Shimoni Resort –Vs- Attorney General	15 April 2016	2,000,000.00	400,000.00	15th April 2016 to 30th November 2017

Committee Observations and Findings

2194) The Committee observed and found that:

1) The Ministry delayed in paying the decretal sums for various cases resulting in significant accrued interests amounting to KSh.13,839,467;
2) The the Accounting Officer did not state the clear position of the Ministry on legal claims since the response given for this paragraph was contrary to response in paragraph 855.3.1; and
3) The matter therefore remaind unresolved.

Committee Recommendations

2195) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015;**
4) **The matter was unresolved.**

857.2 Loss of Public Funds

2196) Other operating expenses figure of KSh.741, 048,982 in the financial statement includes expenditure of KSh.112, 831,083 on legal claims arising from a civil case. The Commissioner of Lands was sued on the grounds that he prepared and executed a title deed in favor of the plaintiff with full knowledge that the same land was registered to another party. As a result, the government lost KSh.112, 831,083.

Submission by the Accounting Officer

2197) The Accounting Officer submitted that it was true that that during the Financial Year under review, the Ministry incurred expenditure of KSh.112,831,083 on legal claims for case no. 152 of 2012. The circumstances leading to these was due to a missing file that necessitated a temporary file being opened. The new file did not have all the documents thus causing the issuance of another title.

2198) The Ministry has since put up stringent internal controls measures to eradicate such vices and has been training its staff to ensure diligence in their work. The Ministry is also working tirelessly on the digitalization of land records that will eliminate such issues in the future.

Committee Observations and Findings

2199) The Committee observed and found that:

1) The Commissioner of Lands ZABLON AGWATA MABEA enjoined to the Defendant as the Third Party was sued on the grounds that he prepared and executed a title deed LR No. 209/12851 in favor Cedar Bank Enterprise Ltd – Defendant with full knowledge that the same land was registered to another party (City Finance Bank Ltd - Plaintiff) thus the Government lost KSh.112,831,083;
2) A loan facility was granted to the Defendant by virtue of a legal charge against plot LR No. 209/12851 who defaulted on the payment of the loan. On 5th November, 2015 the Court entered judgement for the Defendant against the Third Party to pay as follows:
    a) 50% of principal Sum Ksh.45, 340,075.75, that is, Ksh.22, 670, 037.87
    b) Interest at 17% per annum from 1st July 1997 until the date of judgement
    c) Interest at Court rates from the date of judgement until the payment in full.
    d) Costs of the suit.
3) The matter therefore remained unresolved.

Committee Recommendations

2200) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Mr. Zablon Agwata Mabea should be held culpable for committing an offence by contravening Section 62 (1) of the Public Audit Act 2015.**

857.3 Digitization of Land Registries

2201) Contract to digitize Machakos, Kajiado, Nakuru and Kisumu land registries were awarded to three local companies on 30th May, 2015 at a combined contract sum of KSh.154,280,000. However, lack of appropriate scanners and internet has significantly affected the sustainability of digitization in four registries despite incurring significant expenditure. Consequently, it has not been possible to ascertain if the citizens of the four counties are getting value for money on the expenditure of KSh.154,280,000 on the digitization process.

Submission by the Accounting Officer

2202) The Accounting Officer submitted that Digitization of land transactions in Machakos, Kajiado, Nakuru and Kisumu land registries were executed through contracts which were completed on 14thFebruary 2018. Equipment to enable continuity of scanning was provided in the said land registries in the following dates:

	Station	Date supplied
1.	Machakos Land Registry	25th September 2018
2.	Kajiado Land Registry	25th September 2018
3.	Nakuru Land Registry	5th December 2017
4.	Kisumu Land Registry	17th May 2017

2203) However, equipment for Nakuru and Kisumu Land Registries had not been assembled by 14th February 2018 awaiting the exit of the Contractor to create space for new set up.

2204) The scanners have been set up and the Land Registries continue with scanning of incoming documents. The stations have active internet connections. Schedule of scanners provided to the Land Registries was attached for perusal by the Committee.

Committee Observations and Findings

2205) The Committee observed and found that:

1) The contracts to digitize Machakos, Kajiado, Nakuru and Kisumu land registries were completed and handed over to the Ministry during 2016/2017 financial year, scanning of documents was not continuing because of lack of scanners;
2) Contrary to the submission by the Accounting Officer, Nakuru and Kisumu land registries equipment had not been assembled;
3) It was not possible to ascertain if the citizens of the four counties are getting value for money on the expenditure of KSh.154,280,000 on the digitization process; and
4) The matter therefore remained unresolved.

Committee Recommendations

2206) The Committee recommended that:

1) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) (g) & (h) of the Public Finance Management Act, 2012.**
2) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must give a report on the status of the machines to the National Assembly together with an explanation for incurring expenditure of 154,280,000 on the digitization process to buy machines which have not been put to use contrary to the provisions of section 196(1) of the Public Finance Management Act, 2012.**

858. Renovations of Lands Office - Bungoma

2207) Records availed for audit review indicated that a contract for renovation of Bungoma Lands Office was awarded at a sum of KSh.5,687,665 in 2016/2017 financial year and the total contract sum paid during the year. However, an audit inspection at the Bungoma land registry revealed discrepancies amounting to KSh.666,660 between the actual works performed and what was stipulated in the bills of quantities. Consequently, it could not be confirmed that value for money was obtained in the renovation works.

Submission by the Accounting Officer

2208) The Accounting Officer submitted that Renovation of Bungoma Land Registry was awarded to M/s Mami Building and Civil Engineering Company Limited under supervision by County Public Works Office, Bungoma. By end of contract period, the following works were reported accomplished as per handing over report: Painting the building (both interior and exterior), partitioning of offices, terrazzo furnishing, tiling works, electrical works, replacement of doors and leaking roof.

Committee Observations and Findings

2209) The Committee observed and found that:

1) The field inspection at the Bungoma land registry revealed discrepancies amounting to Ksh.666,660 between the actual works performed and what was stipulated in the bills of quantities;
2) The Accounting Officer did not explain whether there was a discrepancy between the actual works performed and the bills of quantities;
3) The Accounting Officer did not provide a copy of the performance bond for M/s Mami Building and Civil Engineering Company Limited; and
4) The matter therefore remained unresolved.

Committee Recommendations

2210) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter was unresolved.**

859. Development of Sporting Facilities at the Kenya Institute of Surveying and Mapping

2211) Included in acquisition of assets figure of KSh.1,256,719,593 is construction of Civil Works expenditure of KSh.5,700,000 which includes KSh.4,200,000 paid in respect of a contract for development of sporting facilities at the Kenya Institute of Surveying and Mapping awarded at a contract sum of KSh.21,550,776. The contract period was 26 weeks with the commencement date being 5th September, 2017 and the completion date, of 15th March, 2018. However, by the time of the audit in October 2018, the works had not been completed. Although the contractor had been paid KSh.4,200,000 against the first valuation No.1 amounting to Ksh.7,201,813.60 dated 12th October, 2017, it was not confirmed whether there was approval for extension of the contract period. Site visit and physical verification revealed that the contractor had not established a site office as required. Further, performance security of 5% of contract price as not availed for audit review and therefore it could not be confirmed whether the contractor had provided the same.

Submission by the Accounting Officer

2212) The Accounting Officer submitted that it was true that the contract period was 26 weeks and the work commenced on 5th September 2017 and were scheduled to be completed on 15th March 2018.The extension for contract was requested by the contractor to the project manager in the State Department of Public Works who analyzed the request and recommended an extension as per their letter Ref. No. SD/D111/G/ Vol. XI/58 dated 14th March 2019. (Letter and schedule of analysis were attached) due to long rains and floods and repair works of sections damaged by floods.

2213) It was true that the first valuation certificate for the works dated 12th October 2017 was issued amounting to Ksh.7,201,816.60 and the Ministry was able to pay the Contractor Ksh.200,000. This was due to budget cut under supplementary 1 in the financial Year 2017/2018.Further, the Contractor did not establish a site Office as this was not factored in the bill of quantities. It was also true that a performance security was not availed. The works were completed after the extension of Contract and Certificate of practical completion issued.

Committee Observations and Findings

2214) The Committee observed and found that:

1) The contract period was 26 weeks and commencement date was 5 September 2017 and completion date 15 March 2018. However, by the time of the audit in October 2018, the works had not been completed and it was not confirmed whether there was approval for extension of contract period;
2) As at the time of audit, the contractor had not established site office as required contrary to clause 01 (vii) of special specification;
3) As at the time of audit, the Accounting Officer had not availed for audit review the performance security of 5% of contract price and therefore could not be confirmed whether the contractor had forwarded the same;
4) As at the audit period for the succeeding financial year, the sporting facility had been completed and all the issues raised above addressed; and
5) The Committee marked the matter as resolved.

860. Lack of an Audit Committee

2215) In 2017/2018 financial year, the Ministry did not have an independent audit committee as required by Section 73 (5) of the Public Finance Management Act 2012. Which states that every national government public entity shall establish an audit committee whose composition and functions shall be as prescribed by the regulations. In the absence of a functioning audit committee, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements among other functions of an audit committee did not occur which may have affected good corporate governance at the Ministry.

Submission by the Accounting Officer

2216) The Accounting Officer submitted that it wastrue that during 2017/2018 Financial Year the Ministry had not constituted an Independent Audit Committee as required by Section 73(5) of the Public Finance Management Act 2012. On this matter, we would like to comment as follows:

2217) Pursuant to Section 73 (5) of the Public Finance Management Act 2012, the positions of Chairperson and Members of the Audit Committee were advertised by the National Treasury. The advert closed on 30th December, 2016 and did not attract suitable candidates.

2218) The Ministry of Lands and Physical Planning re-advertised for the positions of the Committee and the closing date was on 14th February, 2018. This Ministry appointed two (2) members and recommended the re-advertisement for the position of the Chairperson of the Audit Committee vide Ministerial Human Resource Management Advisory Committee Minutes of 31st July, 2018.

2219) Subsequently, the position of the Chairperson was re-advertised and interviews conducted on 8th October 2019. Mr. Joseph Sudi Ndinyo was appointed as the Chairperson of the Audit Committee vide MHRMAC Meeting held on 8th November, 2019.

2220) The National Treasury nominated Ms. Lucy W. Mugwe as its representative to this Ministry's Audit Committee vide letter Ref. No.NT/IAG/GEN/055/1/(25) dated 17th January, 2020.The Ministerial Audit Committee is now fully constituted.

Committee Observations and Findings

2221) The Committee observed and found that:

1) The Ministry did not have an independent Audit Committee as required by Section 73 (5) of the Public Finance Management Act 2012;
2) The the Accounting Officer had since established an Audit Committee in place in line with the provisions of Section 73 (5) of the Public Finance Management Act 2012; and
3) The Committee marked the matter as resolved.

THE REVENUE STATEMENTS

MINSITRY OF LAND AND PHYSICAL PLANNING

2222) Reference is made on the above subject matter. In the Audit Report for 2017/2018 Financial Year, a number of issues were pointed out and we have the following responses to the various paragraphs therein:

861. Statement of Comparison of Budget and Actual Amounts

2223) The statement of comparison of budget and actual amounts for the year ended 30th June, 2018 reflects actual revenue amount of KSh.786,517,922 against a revenue budget of KSh.841,297,579 resulting in under collection of KSh.54,779,657.

2224) In addition, management did not provide explanations for the material variances as required by International Public Sector Accounting Standard 1.7.8. Non-compliance with this requirement affects understandability of the revenue statement by the users.

Submission by the Accounting Officer

2225) The Accounting Officer submitted that it was true that the Statement of comparative budget and actual amounts in the year ended 30th June, 2018 reflects actual revenue of KSh.781,517,922.00 against a revenue budget of KSh.841,297,579 resulting in under collection of KSh.54,779,657.00. This scenario was occasioned by reduced land transactions as normally happens during electioneering period and also shortage of land valuers which has negatively affected revenue realized from stamp duties.

2226) The Ministry through the Public Service Commission have recruited additional twelve (12) valuers who are currently on induction at the Ministry Headquarters after which they will be posted to county land offices. In addition, the Ministry endeavor to enhance efficiency, timeliness, quality, flexibility and convenience in service delivery through cashless payments of all land transactions through mobile money or direct bank deposits by 30thSeptember, 2020 to ensure that budgeted revenue estimates are realized.

Committee Observations and Findings

2227) The Committee observed and found that:

1) The Accounting Officer failed to provide explanations for the material variances as required by International Public Sector Accounting Standards 1.7.8;
2) The Accounting Officer did not provide timelines as to when the newly recruited valuers were likely to be posted to the field and how many land offices across the country lacked qualified valuers and surveyors; and
3) The matter therefore remained unresolved.

Committee Recommendations

2228) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide timelines as to when the newly recruited valuers were likely to be posted to the field and how many land offices across the country lacked qualified valuers and surveyors.**

862. Transfers to Exchequer Account

2229) The statement of revenues and transfers for the year ended 30th June, 2018 reflects transfers to exchequer account of KSh.786, 517,923. However, records maintained by the

National Treasury indicate total receipts of KSh.856, 030,095 from the Ministry resulting in a variance of KSh.69, 512,172 which has not been explained or reconciled.

2230) In the circumstances, the accuracy of the total revenue collected figure of KSh.786, 517,923 included in the statement of revenues and transfers could not be confirmed.

Submission by the Accounting Officer

2231) The Accounting Officer submitted that it was true that the Statement of Revenues and transfers for the year ended 30th June, 2018 reflects transfers to the Exchequer Account of KSh.786,517,922.70.It was also true that the records maintained by the National Treasury indicated total receipts of KSh.856,030,095.00 from the Ministry resulting in a variance of KSh.69,512,172.30.

2232) The Ministry wishes to state that money received into the revenue account is swept to the exchequer account daily through a standing order. The Ministry revenue account held at the Central Bank of Kenya is 1000323922. However, the former Ministry of Lands, Housing and Urban Development revenue account number 1000209534 has never been closed and lodgments are still made to this account for revenue for both Ministries i.e Ministry of Lands and Physical Planning and that of State Department for Housing and Urban Development. It is note worth that the Ministry of Lands and Physical Planning cannot access the account since our mandates are for the new account.

2233) The total banking for the year 2017/18 revenue account number 1000323922 was Ksh.507,184,040.70 and for the old account was KSh.372,953,516.70. Included in this figure is KSh.93,616,634.70 in respect of State Department for Housing and Urban Development leaving a balance of KSh.279,336,882.00 as tabulated below: -

Total amount ac no 1000209534	372,953,516.00
Amount for. Housing	(93,616,634.70)
Amount in respect of min of lands	**279,336,882.30**
Thus, the Ministry of Lands and Physical Planning reported revenue collection of KSh. 786,517,922.00 tabulated as below	
Account No. 1000323922	507,184,040.70
Account No. 1000209534	276,336,882.30
TOTAL	**786,517,922.00**

Committee Observations and Findings

2234) The Committee observed and found that:

1) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that the Ministry prepares accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts; and
2) The matter therefore remained unresolved.

Committee Recommendations

2235) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for failing to ensure that the Ministry prepares accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts contrary to the provisions of section 196(1) of the Public Finance Management Act, 2012.**

863. Collection of Revenue

2236) Records availed for Machakos County indicate that as at 30th June, 2018, KSh.4,869,706 had been collected from survey fees, registry index maps fees and sale of maps and remitted to the County Government in contravention of the National Treasury guidelines which required that the revenue collected be transferred to the Ministry's headquarters.

Submission by the Accounting Officer

2237) The Accounting Officer submitted that it was true that records for Machakos County indicate that as at 30th June, 2018, KSh.4, 869,706 had been collected from Survey Fees, Registry Index Maps and sale of Maps and remitted to the County Government in contravention of the National Treasury Guidelines.

2238) The Ministry has so far issued strict guidelines regarding the collection of revenue in the National Sub-county Treasuries vide Treasury Letter Ref.20/47/88 of 28th March 2017. The Ministry issued further instruction on the same vide letter Ref. No.MLPP/AC/09/06/(27) of 4th July 2018 to all County Land Offices. Since then all Revenue collected in the County Offices is surrendered to the Ministry's Headquarters as per the Guidelines.

Committee Observations and Findings

2239) The Committee observed and found that:

1) The same Officer in Machakos County had failed to remit to the County Government KSh.4,869,706 which was revenue collected from survey fees, registry index maps fees and sale of maps and in contravention of the National Treasury;
2) The Accounting Officer had not taken any administrative measures on those Officers who failed to remit to the County Government KSh.4,869,706 as revenue in contravention of the National Treasury; and
3) The matter therefore remained unresolved.

Committee Recommendations

2240) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the**

PFM Act, 2012.

2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Within three (3) months of the adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for failing to remit to the County Government KSh.4,869,706 which was revenue collected from survey fees, registry index maps fees and sale of maps and in contravention of the National Treasury directive contravening to the provisions of section 196 of the Public Finance Management Act, 2012. The Public Officers collecting revenues in Machakos County are culpable.**

864. Non-maintenance of Cash Book at Bungoma National Sub-County Treasury

2241) Audit Inspection at Bungoma National Sub-county Treasury, revealed that no cash book was maintained for the land revenues collected at the station thus casting doubt on the completeness of the revenues collected at the sub county treasury.

Submission by the Accounting Officer

2242) The Accounting Officer submitted that in the 2017/18 financial year, the clients at Bungoma County paid land revenues direct to County Treasury office then provide receipt to land office. The Ministry has made arrangements for sufficient cash books for all land offices.

Committee Observations and Findings

2243) The Committee observed and found that:

1) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that the Ministry prepares accurate and complete cashbook in all land offices that conforms to Regulation 97 on the basic structure of government accounts; and
2) The matter therefore remained unresolved.

Committee Recommendations

2244) The Committee recommended that:

1) **Accounting Officers MUST at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **Accounting Officers MUST at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) MUST provide an explanation for non-maintenance of Cash Book at Bungoma National Sub-County Treasury that conforms to Regulation 97 on the basic structure of government accounts contrary to the provisions of section 196(1) of the Public Finance Management Act, 2012.**

865. Shortages of Land Valuers in Counties

2245) Audit inspection of the various land registries revealed a shortage of land valuers in the Ministry resulting in inefficiencies in service delivery and negatively impacting on revenues realized from stamp duties. For instance, Migori had only land valuer based in Kisii County but covering Kisii, Nyamira, Migori and Homabay Counties while at Bungoma Land Registry, the Assistant Senior Land Registrar in charge of the station performed valuation and assessment of stamp duty since the Regional Valuer was based in Kakamega. The shortage of land valuers has negatively affected revenue collection in the counties.

Submission by the Accounting Officer

2246) The Accounting Officer submitted that it wastrue that there is shortage of valuers in most of the County Land Registries which have negatively impacted on revenues realized from stamp duties. The Ministry has deployed a Valuer to Bungoma County. The Ministry through the Public Service Commission have recruited twelve (12) valuers who are on induction at the Ministry Headquarters after which they will be posted to the needy counties including Nyamira, Migori and Homabay. Additional valuers will be posted to all counties once the Ministry is given approval to recruit by the Public Service Commission.

Committee Observations and Findings

2247) The Committee observed and found that:

1) The Accounting Officer did not provide a list of counties lacking valuers and what contingent measures he has taken to ensure that the offices that lack valuers are adequately and timely served;
2) The matter therefore remained unresolved.

Committee Recommendations

2248) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for lack of valuers and what contingent measures he has taken to ensure that the offices that lack valuers are adequately, timely served. This was contrary to the provisions of section 196(1) of the Public Finance Management Act, 2012.**

26.0. STATE DEPARTMENT FOR INFORMATION, COMMUNICATION, TECHNOLOGY AND INNOVATION

FINANCIAL STATEMENTS FOR VOTE 1122

Mr. Jerome Ochieng, the Principal Secretary and Accounting Officer for the State Department of ICT (Vote 1122) appeared before the Committee on 17th June, 2020, 1st September 2020, 22/09/2020 to adduce evidence on the Audited Financial Statements for the State Department of ICT (Vote 1122) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Ms. Katherine W. Getao - CEO ICT Authority
2. Ms. Margaret Kariuki - Deputy Accountant General
3. Mr. Charles W. Kariuki - Chief Finance Officer
4. Mr. Hesbon Malweyi - Director ICT
5. Mr. Andrew Opiyo - Deputy Director ICT
6. Eng. Victor Kyalo - Former Principal Secretary
7. Mr. Christopher Kariuki - Chief Finance Officer
8. Mr. Anthony Njenga - Assistant Accountant General
9. Mr. Pius M. Kaua - Principal ICT Officer
10. Ms. Jane Masibayi Musundi - Snr. Principal Finance Officer
11. Ms. Margaret Kariuki - Deputy Accountant General
12. Ms. Lucy Muhili - Secretary Administration

875. Accuracy of the Financial Statements

2249) The figures reported in the financial statements for the year ended 30 June 2018 differed from the figures confirmed in the financial statements from IFMIS ledger as detailed below:

Details	Amounts as per Financial Statements (Kshs)	Amounts as per IFMIS Reports (Kshs)	Difference (Kshs)
Total Payments	11,671,827,593	11,670,365,383	1,462,210
Total Financial Assets	5,856,890	2,772,992,950	(2,767,135,980)
Total Financial Liabilities	3,134,608	2,771,642,685	(2,767,135,980)
Fund balance brought forward	1,993,791	4,955,089.80	2,924,605

The two sets of balances have not been reconciled or differences explained.

2250) Consequently, the validity, correctness and accuracy of the figures in the finance statements for the year ended 30 June 2018 count not be ascertained.

Submission by the Accounting Officer

2251) The Accounting Officer admitted that the medium duty printer, smart UPS 700VA, extra-large volume photocopier and desk top computers were procured and charged under specialized plant, equipment and machinery. The budget for these items was provided under purchase of specialized plant, equipment and machinery since they were meant to provide support to County Connectivity Project (CCP). Copies of the revised development expenditure estimates 2017/2018 where the budget was provided for under GOK counterpart funding were attached for perusal by the Committee.

2252) The Ksh.624,835,441 was paid for County Connectivity Project for installation of an IP base Hipath 4000 network across the country. The payments were down payments for phase IIIA and IIIB as indicated in the table below:

Invoice No.	Details	Amount in Kshs
PF-ICTA-111A	15% Down payment phase IIIA	148,539,665.28
PE-ICTA-111B	15% Down payment phase IIIB	308,631,771.64
S117-0135	30% of the services as start of the works phase IIIA	130,419,356.64
Site survey phase IIIA		7,148,821.80
Payments for detailed design structured cabling, local project managers, management trainings		30,095,826.20
Total		**624,835,441**

2253) These down payments were made based on CCP commercial contracts section 8.5.2 and 8.5.4.1. The details of the nature, description and the location of assets paid for have been disclosed under**.** Documentation supporting these payments have were submitted to the Auditor General for review and verification.

Committee Observations and Findings

2254) The Committee observed and found that:

1) The Accounting Officer had eventually submitted the documents to the Auditor-General for review and verification; and
2) The matter was therefore unresolved.

Committee Recommendations

2255) The Committee recommended that:

1) **Within three months of tabling and adoption of this report, Accounting Officer**

at the material time (2017-2018) must be reprimanded in writing by the Cabinet secretary for failing to provide the supporting documentation to the Auditor General within the prescribed time lines.

2) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that he prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
5) **The matter remains unresolved until the Auditor General submits a report of the verification of the financial statements.**

876. Acquisition of Assets

876.1 Specialized Assets

2256) The statement of receipts and payments reflects an amount of KSh.3,593,487,703 under acquisition of assets which includes purchase of specialized plant, equipment and machinery of KSh.630,275,441. The amount however includes KSh.5,440,000 relating to purchase of medium duty printer, Smart UPS 700KVA, extra-large volume photocopier and desktop computers all of which do not qualify to be in the class of specialized Plant, Equipment and Machinery.

2257) In addition, the acquisition of specialized plant, equipment and machinery figure of KSh.630,275,441 includes an amount of KSh.624,835,441 which was paid to a vendor for which the details of the nature of assets procured, description of the assets and the location were not provided for audit examination. Further, the payment made was not supported by documentation to show that it was done in line with the conditions set on the contract allegedly supporting the procurement.

2258) Consequently, the correctness and propriety of the KSh.3,593,487,703 under acquisition of assets could not be ascertained.

Submission by the Accounting Officer

2259) The Accounting Officer admitted that the medium duty printer, smart UPS 700VA, extra-large volume photocopier and desk top computers were procured and charged under specialized plant, equipment and machinery. The budget for these items was provided under purchase of specialized lant, equipment and machinery since they were meant to provide support to County Connectivity Project (CCP). Attached for perusal were the revised development expenditure estimates 2017/2018 where the budget was provided for under GOK counterpart funding.

2260) The Kshs.624,835,441 was paid for County Connectivity Project for installation of an IP base Hipath 4000 network across the country. The payments were down payments for phase IIIA and IIIB as indicated in the table below:

Invoice No.	Details	Amount in Kshs
PF-ICTA-111A	15% Down payment phase IIIA	148,539,665.28
PE-ICTA-111B	15% Down payment phase IIIB	308,631,771.64
S117-0135	30% of the services as start of the works phase IIIA	130,419,356.64
Site survey phase IIIA		7,148,821.80
Payments for detailed design structured cabling, local project managers, management trainings		30,095,826.20
Total		**624,835,441**

2261) These down payments were made based on CCP commercial contracts section 8.5.2 and 8.5.4.1. The details of the nature, description and the location of assets paid for were disclosed to the Committee together with documentation supporting the payments.

Committee Observations and Findings

2262) The Committee observed and found that:

1) The Accounting Officer failed to ensure that he availed supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015;
2) The Accounting Officer failed to ensure that, while procuring goods and services, they do so pursuant to Section 45 (3) of the Public Procurement and Asset Disposal Act of 2015 which provides that "all procurements processes shall be planned by the procuring entity concerned through an annual procurement plan." Further that funds are readily available for the payment of the goods and services on time to avoid any variations in terms of exchange rates;
3) The Accounting Officer failed to comply with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

2263) The Committee recommended that:

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

876.2 Domestic Public Non-Financial Enterprise

2264) The acquisition of assets figure of KSh.3,593,487,703 also includes a figure of KSh.2,960,484,692 (2016/2017 – KSh.2,873,149,807) in respect of financial assets described as Domestic Public Non-Financial Enterprise whose nature of assets and breakdown was not made available for audit verification. The expenditure is allegedly in respect of the National Fibre Optic Backbone Infrastructure (NOFBI) whose first phase was initiated in 2010 and completed in 2012 with subsequent extensions automatically granted to the contractor without any procurement process some of which are yet to be completed and commissioned.

2265) However, the payments were made directly by National Treasury who also approved the invoices and signed certificates of acceptances even though there was no evidence of inspection and acceptance committee in place.

2266) No evidence of analysis of work done or details of the assets created that was being paid for were made available for audit review. Further, though the NOFBI project network is being used by most of the data service providers in the Country, there is no evidence of billing done for the last four years it has been operational neither has there been any service provision framework in place between NoFBI project managers and the service providers. The Government has therefore been funding the operation of commercial entities without recovering the cost which amounts to lack of prudence in the use of public resources.

2267) Under the circumstances, it has not been possible to confirm the propriety of the expenditure on acquisition of non-financial assets totaling KSh.3,593,487,703 as at 30 June 2018.

Submission by the Accounting Officer

2268) The Accounting Officer admitted that under the acquisition of assets figure of Kshs.3, 593,487,703 as disclosed on note 7 to the financial statements includes a figure of Kshs.2,960,484,692 (2016/17) – Kshs.2,873,149,807) in respect of financial assets described as Domestic Public No-Financial Enterprise. The nature of assets and breakdown was prepared and finalized. Copies were attached for perusal by the Committee. The expenditure was in respect of the National Fibre Optic Backbone Infrastructure (NOFBI). The extensions were undertaken through Government to Government arrangement because the NOFBI II Expansion project was the subject of a negotiated loan with the People's Republic of China. The arrangement was ratified through signing of both financial and commercial contracts, after carrying out due diligence on the proposed company. Copies of the contracts and due diligence report were attached. NOFBI 1 and 2 have since been completed while NOFBI 2 Expansion would be completed within the year 2020.

2269) The certificates of acceptance were signed by representatives of the State Department and ICT authority and not National Treasury as noted. These certificates of acceptance were issued as per section 11.3.2 of the NOFBI commercial contracts and acted as proof of work done after field inspections. Copies of the certificates and field inspections reports were attached for review. The analysis of the work done and details of the assets created was disclosed to the Committee.

2270) The application for commercial license for ICT Authority to operate as a network facilities provider from communication authority has since been gazetted through gazette notice no 3683. The commercial license once issued will facilitate commercialization of NOFBI Network.

Committee Observations and Findings

2271) <u>The Committee observed that the matter was resolved during the examination of the accounts for the subsequent year.</u>

876.3 National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP) Structure

2272) The State Department of Information Communications, Technology and Innovation was undertaking two projects namely National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP). The projects do not have a defined structure that allocates responsibility of ensuring delivery by contractor. The contract is between the State Department and the contractor, the contractor bills ICT Authority for works done if any and the payments are made by the National Treasury. No documented inspection and acceptance report have been provided to support any of the payments made amounting to KSh.5,833,634,501 in respect of NOFBI and KSh.624,835,441 paid in respect of CPP over the last two years. No evidence has been provided for audit verification to show that Use Acceptance Testing (UAT) has ever been undertaken on the project. In addition, even though the two projects are presumed to have project managers, no appointment letters were availed for audit verification. Further, appointment letters for members of the inspection and acceptance committee for both projects were not provided for audit verification.

2273) In view of the foregoing, governance, propriety and value for money for expenditure of KSh.6,458,469,942 incurred in these projects could not be confirmed.

Submission by the Accounting Officer

2274) The Accounting Officer admitted that the State Department of Information Communications, Technology and Innovation was undertaking two projects namely National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP). The structure of the projects has been provided for by the commercial contracts which indicates the responsibility of both the contractor and the State Department. Within the State Department, ICT authority implements the project while the department does the supervision. The commercial invoices were addressed to the Ministry of ICT. Copy of the commercial contracts for NOFBI, for CCP and commercial invoices were attached for perusal by the Committee.

2275) The Public Procurement and Disposal Act, 2015 section 6 (1) and The Public Finance Management Act, 2012 Section 68 (1) (d) requires compliance with all contracts entered by the State Department. The payment provisions under NOFBI commercial contracts section 11.3 required issuance of certificate of operational acceptance as proof of work done. These certificates were issued by representatives of the State Department after field inspections by a team of officers. Copies of the certificates and field inspections reports were attached for perusal by the Committee. Part of CCP payments were advances paid as per the commercial contract section 8.5.2 and 8.5.4.1 and did not therefore require inspections as at the time of making the payments.

2276) However, within FY 2017/2018 the year under audit review, equipment for phase IIIA were delivered and a team constituted to inspect them and produced an inspection report was attached. The CCP balance was payment for site surveys carried out in 15 counties, designs preparations and management costs. Copy of the survey report was availed to the Committee. The user acceptance testing was carried out in the year 2018 where an acceptance testing report was compiled. A copy of the report, appointment letter for factory inspection team and appointment letters for the project managers were attached for review by the Committee.

Additional submissions

876. Acquisition of Assets

876.1 Specialized Assets

876.2 Domestic Public Non-Financial Enterprise

876.3 National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP) Structure

Continuation from Previous Meeting

2277) During the examination of the Accounts of the State Department for Information Communication Technology & Innovation on Wednesday, 17th June, 2020, the audit query on paragraph 876 on the acquisition of specialized assets worth of Kshs.3,593,487,703 was not satisfactorily responded to.

2278) The Committee observed that payments of Ksh.3,593,487,703 under acquisition of assets included purchase of specialized plant, equipment and machinery of Ksh.630,275,441. The amount also included Ksh.,440,000 relating to purchase of medium duty printer, Smart UPS 700KVA, extra-large volume photocopier and desktop computers all of which do not qualify to be in the class of specialized Plant, Equipment and Machinery.

2279) In addition, the acquisition of specialized plant, equipment and machinery figure of Kshs.630, 275,441 includes an amount of Kshs624,835,441 which was paid to a vender for which the details of the nature; of assets procured, description of the assets and the location were not provided for audit examination. Further the payment made was not supported by documentation to show that it was done in line with the conditions set on the contract allegedly supporting the procurement.

2280) In this regard, the Committee resolved to State Department to a follow-up meeting to respond to issues raised in the audit query and in particular address the following: -

1. Confirm the propriety of the expenditure on acquisition of non-financial assets totaling Ksh.3,593,487,703
2. Explain how the medium duty printer, smart UPS 700KVA, extra-large volume photocopier and desk top computer qualify to be specialized assets; and
3. Give the location of each of the specialized Assets.

Further submission by the Accounting Officer

2281) The Accounting Officer submitted that it was true that the medium duty printer, smart UPS 700VA, extra-large volume photocopier and desk top computers were procured and charged under specialized plant, equipment and machinery. The budget for these items was coded and provided for under purchase of specialized plant, equipment and machinery. A copy of the revised development expenditure estimates 2017/2018 where the budget was provided for under GOK counterpart funding is attached for perusal by the Committee. The procurement requisition and the professional opinion which indicated that the equipment were intended to facilitate operations for the projects was also attached.

2282) The following table indicates the location of each of the specialized Assets totaling Ksh.5,440,000.

Quantity	Asset	Location	No.	Value
15	Desk top computers	Directorate of ICT	3	415,500
		Accounts	4	554,000
		Directorate of human resource management	4	554,000
		Finance	2	277,000
		DS-ICT	1	138,500
		Procurement	1	138,500
15	UPS	Directorate of ICT	3	55,500
		Accounts	4	74,000
		Directorate of human resource management	4	74,000
		Finance	2	37,000
		DS-ICT	1	18,500
		Procurement	1	18,500
3	Medium duty printer	DICT	1	95,000
		Procurement	1	95,000
		Accounts	1	95,000
2	Extra Large	Finance	1	1,400,000

	volume photocopier	Procurement	1	1,400,000
Total				**5,440,000**

2283) The Ksh.624,835,441 included under acquisition of specialized plant, equipment and machinery related to down payments made under County Connectivity Project for installation of an IP base Hipath 4000 network across the country for phase IIIA and IIIB as indicated in the table below :

Invoice No.	Details	Amount in Kshs
PF-ICTA-111A	15% Down payment phase IIIA	148,539,665.28
PE-ICTA-111B	15% Down payment phase IIIB	308,631,771.64
S117-0135	30% of the services as start of the works phase IIIA	130,419,356.64
Site survey phase IIIA		7,148,821.80
Payments for detailed design structured cabling, local project managers, management trainings		30,095,826.20
Total		**624,835,441**

2284) These down payments were made based on CCP commercial contracts section 8.5.2 and 8.5.4.1. Copies of the CCP commercial contracts were attached for review. Before the payments were processed, ICT Authority on behalf of Government perused the submission by the contractor and certified that they were in order. A letter from ICT Authority was attached. The surveys and designed structured cabling were captured in the CCP contract annexes which were attached.

2285) The down payments were made in respect to various assets as a list of which was attached for perusal by the Committee and they were destined for various locations as indicated on a list attached as well. Upon delivery of the assets, the materials were verified by officers from the State Department, and verification reports prepared. A copy was attached for review. So far, County Connectivity Project has made communication within counties and inter counties (Voice services) possible. It has further enabled smooth flow of internet and video conferencing services available in the counties, a detailed progress report for CCP was attached for your review.

2286) The Ksh.3,593,487,703 under the acquisition of specialized assets is analyzed as below:

	Expenditure area	Payee	Amount
1	National Optic Fibre Backbone Infrastructure (NOFBI)	Huawei Tech (Kenya) Co Ltd	2,960,484,532.84
2	County Connectivity Project (CCP)	Soulco NV	624,835,441.56
3	Equipment	Various	5,440,000.00
4	Office Furniture	Various	2,727,330
	Total		**3,593,487,304.40**

2287) The Ksh.2,960,484,532.84 relates to payments made on National Optic Fiber Backbone Infrastructure (NOFBI) project whose objective was to build a terrestrial fiber network in order to connect government institutions countrywide to enable digitization of services and eventually improve service delivery. The payments were made as per provisions of NOFBI commercial contract a copy of which was attached. So far, the 47 County headquarters and various sites within Sub counties have since been connected with internets and they are using the various online services. A copy of NOFBI progress report was attached for review.

2288) The Accounting Officer also provided a copy of the fixed asset register indicating the nature of the assets procured, description and the various locations and copies of the payment vouchers and acceptance certificates in support of these payments.

Submission from Huawei Technologies Company Limited

Mr. Adam Lane, the Deputy Chief Executive Officer, Government Affairs for Huawei Technologies Limited appeared before the Committee on 29th September 2020 accompanied by the following officers: -

1. **Mr. Michael Maina - Senior Legal Counsel**
2. **Mr. Erick Kagai - Dep. Director Delivery and Sales**
3. **Ms. Pius M. Kaua - Assistant Director State Department of ICT**

2289) And submitted as follows: -

1) That Huawei Technologies Company Kenya Limited was registered in Kenya in 2005 before the new Companies Act with all the Directors being Chinese citizens. It has operated in Kenya for the last fifteen years;
2) The Company has upheld the law as well as the highest level of work ethics;
3) It has over the years earned the trust of its partners and customers as well as their endorsement on the high quality of its products, solutions, work, commitment to Kenya with investments in talent, skills and many other areas;
4) Huawei has also over the years created a lot of employment opportunities both directly and indirectly;
5) As an entity, the Company is happy to have been given a chance to play a crucial role in the NOFBI Project which aims to bring high-speed connectivity across the country and supporting the country's digitization plan, especially during the COVID-19 pandemic;

6) That they were awarded contracts for NOFBI I – 2007, NOFBI II – 2012 and NOFBI II Expansion – 2017.
7) That NOFBI I – 2007 was fully completed and fully funded by the Government of Kenya.
8) That NOFBI II – 2012 was funded by loans from the Government of China and was also completed and handed over to the Ministry of ICT and Innovation for management.
9) That Information Communication Technology Authority - ICTA was given a license by the Communications Authority – CA to operate the two completed projects.

2290) Asked how long it would take to complete the NOFBI II Expansion, Mr. Lane said he wasn't sure and that the timelines can only be given by the Chief executive Officer Mr. Meng Wei who was not present. At this point the Committee resolved to adjourn the meeting until another day when Mr. Meng Wei would be available in person.

<u>Submission from Liquid Telecom</u>

Mr. Adel El Youssefi, the Chief Executive Officer and the Accounting Officer for Liquid telecom appeared before the Committee on 27th October 2020 accompanied by the following officers: -

1. **Mr. Wilfred Waithaka - Regional Chief Technical Officer – East Africa**
2. **Ms. Judy Njeru - Head Legal & Regulatory Affairs**
3. **Mr. William Oungo - Head of Government Affairs**
4. **Dr. Katherine Getao - CEO ICT Authority**

2291) And submitted as follows: -

1) Liquid Telecommunications Kenya Ltd is a registered telecommunications company in Kenya incorporated under registration number C.41705 and licensed by the Communications Authority of Kenya under Kenya Information and Communications Act, 1998 and Kenya Information and Communications (Amendment) Act, 2009;
2) It is a leading independent data, voice and IP provider in eastern central and southern Africa. It supplies fibre optic satellite and International carrier services to Africa's largest mobile network operators, Internet Service Providers, Retail and businesses of all sizes;
3) In Kenya, the Company provides Cloud services, data center management, hosting, wholesale internet carrier, broadband service Retail internet connectivity directly from its owned infrastructure or through third party infrastructure to both government and privates agencies;
4) In provision of this data, Liquid Telecommunications Kenya Ltd utilizes 3rd party fibre (Capacity) from Safaricom, Telkom Kenya, Ketraco and KPLC;
5) It leases capacity from Telkom Kenya for the area covering Thika to Garissa under the NOFBI;
6) The Company entered into a Service Order Agreement with Telkom Kenya in December 2013 for a protected link (NOFBI) between Thika and Garissa. This was operationalized in March 2014 with the first invoice from Telkom worth USD 4,999.00 minus VAT the same month;

7) That Liquid Telecom paid Telkom Kenya for the protected link (NOFBI) between Thika and Garissa a monthly sum of USD4,999.00 without VAT beginning March 2014 until end of February 2018;
8) The protected link (NOFBI) between Thika and Garissa was upgraded to Nairobi – Garissa and therefore, beginning March 2018 until August 2020,Liquid Telecommunications paid Telkom Kenya Ltd a monthly sum of USD9,500.00 without VAT;
9) The upgraded protected link between Nairobi and Garissa was terminated on 18th August 2020;
10) Beginning 17th August 2020, liquid Telecommunications Ltd is leasing the protected link from Thika to Garissa from Safaricom Ltd;
11) Liquid Telecommunications Ltd and Telkom Kenya Ltd are customers of each other and in certain months as may be evidenced by the invoices, the amount due to both entities were netted off against each other's claim and therefore in several instances the amount invoiced on an monthly basis would ordinarily be higher or lower than the fixed charge stated on the Service Order Forms;
12) The amounts specifically paid by Liquid Telecommunications to Telkom Kenya Ltd for the protected link (NOFBI) between Thika and Garissa and between Nairobi and Garissa as upgraded in 2018 are as follows:

Year 2014	**Year 2015**	**Year 2016**	**Year 2017**	**Year 2018**	**Year 2019**	**Year 2020**	**Total**
$60,424.52	$69,586.08	$69,586.08	$69,586.08	$118,613.83	$132,240.00	$87,210.00	$607,246.59

13) Copies of documents referred to were provided as follows:
    a) Service Agreements between Telkom Kenya Ltd and Liquid Telecommunications Ltd;
    b) Service Order Forms
    c) Invoices for services rendered by Telkom Kenya Ltd and Liquid Telecommunications Ltd; and
    d) Proof of payment for the related service since inception

On how best the GOK can extract value from the NOFBI infrastructure, he advised that: -

1) GOK should provide options of either capacity lease or Indefensible Rights of Use (IRUs) to the Telecom Operators. Accordingly, the Service Level Agreements (SLA) for the network availability should also be defined and adhered to;
2) He also informed that the availability and reliability of the NOFBI did not meet the standards required by their customers. Therefore, the GOK should explore ways to ensure service availability on the NOFBI infrastructure in line with both local and global industry standards.

<u>Submission from Airtel Kenya Limited</u>

Mr. Prasanta Das Sarma, the Chief Executive Officer and the Accounting Officer for Airtel Kenya Limited appeared before the Committee on 7th December 2020 accompanied by the following officers: -

1. **Mr. Hussein Versi - Network Director**
2. **Ms. Joy Nyaga - Director Legal & Regulatory Affairs**
3. **Mr. Ramadhan Ramadhan - HOD TRM Planning**

4. **Dr. Katherine Getao - CEO ICT Authority**

2292) And submitted as follows: -

1) Airtel Kenya Kenya Ltd is a registered telecommunications company in Kenya incorporated under registrar of companies act and licensed by the Communications Authority of Kenya under Kenya Information and Communications Act, 1998 and Kenya Information and Communications (Amendment) Act, 2009;
2) It is a part of the Airtel Africa which is also headquartered here in Kenya;
3) The Company provides GSM services and mobile money services;
4) In provision of this services, Airtel Kenya Ltd utilizes 3rd party fibre (Capacity) from Safaricom, Telkom Kenya – 2011 and Jamii Telecommunication Limited;
5) It leases capacity from Telkom Kenya for the area covering Mombasa to Garissa, Rongo to Kisumu and Kitui under the NOFBI;
6) The Company entered into a Service Order Agreement with Telkom Kenya for a protected link (NOFBI) between Mombasa to Garissa, Rongo to Kisumu and Kitui. Airtel Kenya pays USD58,000.00 minus VAT the per month;

Asked where the documents he was referring to were, the CEO had this to say:

7) Copies of documents referred to will be provided as follows:
   a) Service Agreements between Telkom Kenya Ltd and Jamii Telecommunications Ltd;
   b) Service Order Forms
   c) Invoices for services rendered by Telkom Kenya Ltd and Jamii Telecommunications Ltd; and
   d) Proof of payment for the related service since inception

Submission Wananchi Group Limited

Mr. Munish Sharma, the Chief Executive Officer and the Accounting Officer for Wananchi Telecom Limited appeared before the Committee on 27th October 2020 accompanied by the following officers: -

1. **Mr. John Aleri - Finance Officer**
2. **Ms. Amida Machiri N. - Regulatory Officer**
3. **Mr. Peter Nyamukusa - Chief Transport Officer**
4. **Dr. Katherine Getao - CEO ICT Authority**

2293) And submitted as follows: -

1) Wananchi Telecom Ltd is a registered telecommunications company in Kenya incorporated under registrar of companies act and licensed by the Communications Authority of Kenya under Kenya Information and Communications Act, 1998 and Kenya Information and Communications (Amendment) Act, 2009;
2) It is a part of the Wananchi Group of Companies which is also headquartered here in Kenya. Other Companies include Simbanetcom, Isat Kenya and wananchi;
3) The Company provides Cloud services, data center management, hosting, wholesale internet carrier, broadband service and Retail internet connectivity services;
4) In provision of this services, Airtel Kenya Ltd utilizes 3rd party fibre (Capacity) from Telkom Kenya since 2014 to date;
5) The Company entered into a Service Order Agreement with Telkom Kenya for a protected link (NOFBI);

Asked where the documents he was referring to were, the CEO had this to say:

6) He was referring to the following documents referred to will be provided as follows:
   e) Service Agreements between Telkom Kenya Ltd;
   f) Service Order Forms;
   g) Invoices for services rendered by Telkom Kenya Ltd and Jamii Telecommunications Ltd; and
   h) Proof of payment for the related service since inception.

<u>Submission from Communication Authority of Kenya</u>.

Mrs. Mercy Wanjau the Ag. Director General for the Communication Authority of Kenya appeared before the Committee on 4th November 2020 accompanied by the following officers.

1. **Mr. Joseph Musembi Kimanga - Director Finance & Accounting**
2. **Mr. Matono M. Ndaro - Director Licensing Compliance & Standards**
3. **Mr. Liston C. Kirui - Assistant Director Licensing & Compliance**
4. **Mr. Mathew N. Kimunzi - Assistant Commissioner of Prison**
5. **Ms. Rosemary Mwangi - Assistatant to Ag. Director General**

And submitted as follows:

1. **Whether data providers pay NOFBI user data levies to the Government or any other organization (provide evidence if any);**

2294) That the Communications Authority of Kenya (CA) is the national regulatory agency established under the Kenya Information and Communications Act, 1998 (as Amended) to regulate the Information and Communication Technology (lCT) sector in Kenya. CA's mandate includes licensing of new players, managing the scarce ICT resources (frequency spectrum and numbering resources) ensuring compliance of licensees to the regulatory framework, undertaking competition management, type approval of equipment, broadcasting standards and cyber security management.

2295) The responsibility of ensuring that users pay for the services they consume as provided by the service providers within the lCT sector (including NOFBI) is with the service providers themselves.

2296) The Ag. Director General further submitted that upon establishment of NOFBI phase I the Government of Kenya, through Ministry of Information and Communications (predecessor to the Ministry of ICT, Innovation and Youth Affairs), did enter into a Management Agreement (herein referred to as the Agreement) with Telkom Kenya Limited, sometime in 2013, as an independent entity, to fully and exclusively manage NOFBI. As defined in the said Agreement, these Management services included technical operations, maintenance and commercialization of the NOFBI. The commercialization of the fiber, as stated in the Agreement, included jointly determining prices with GOK, invoicing the NOFBI users, and sharing the resultant revenue with GOK.

2. **Whether the Director General has ever initiated a discussion on any data user fees and levies for use of the NOFBI?**

2297) The Ag. Director General submitted that at no point in time has CA been involved in any discussions on any data users fees or levies for use of the NOFBI. She further clarified that CA does not get involved in commercial activities of the players such as setting or ensuring that the tariffs they charge is applied or that monies owing from their customers are collected as these are considered to be commercial operations that the players are solely responsible for undertaking.

3. **In your opinion how best should the government extract value from the national terrestrial fiber optic infrastructure?**

2298) The Ag. Director General submitted that the original objectives for the establishment of NOFBI, being to facilitate ICT connectivity for provision of e-government services throughout the country, should be pursued to the logical conclusions. Any excess capacity may be leased out to other services providers with the revenue accruing used to maintain and expand the network further. This however requires proper management of the infrastructure in order to ensure efficiency and extraction of maximum value.

2299) The Ag. Director General noted that CA recently granted the Information and Communication Technology Authority (ICTA) a Network Facilities Provider Tier 2 license to enable it operate and commercialize the NOFBI cable.

4. **Amount of money paid per year by data providers and for how long have they made the payments if any (provide evidence);**

2300) The Ag. Director General submitted that the Authority has no visibility of any monies paid by providers in respect of the use of NOFBI. It is the Authority view that such information would best be provided by the parties involved under the agreement entered between the GOK and Telkom Kenya Limited and any such other arrangement for the management of NOFBI.

Comments from the CEO ICTA

2301) The Director ICTA commented that:

1) The agreement was envisaged to allow ICTA to commercialize the NOFBI, collect revenue and use the revenue for maintenance of the infrastructure and also to service the loan
2) ICTA applied license on August 2019 and the license was issued on 11th September 2020

Plenary

2302) The following issues come out during plenary:

1. The primary role of CA was to license and not to oversee the commercial operation, setting tariffs and sourcing of clients;
2. ICTA applied for the license on August, 2019 and the same was issued on 11th September, 2020 almost a year later;
3. NOFBI is an infrastructure of which cannot be licensed, however the license is issued to the registered institution operating the infrastructure;
4. There were two agreements in regards NOFBI namely; Agreement between National Treasury, China Exim Bank and Telkom Kenya; Management Agreement between the Ministry of ICT and Telkom Kenya for revenue sharing; and
5. For purpose of personal responsibility, Mr. Francis Wangusi was identified as the then Director General ICTA which he served for the last 8 years until 22nd August 2019.

Evidence: Telekom Kenya Ltd

Mr. Mugo Kibati the Chief Executive Officer and the Accounting Officer Telkom Kenya Ltd appeared before the Committee accompanied by the following officers.

1. Mr. S. Wawira - Head of Public Policy
2. Ms. Wangechi Gichuki - Director Legal Services
3. Mr. Caspur Omondi - Finance Partner
4. Mr. Kebaso G. Mawai - Chief Wholsale and Cloud Officer
5. Ms. Katherine W. Getao - CEO ICT Authority
6. Mr. Thomas Odhiambo - Head, PMO/ ICT Authority

2303) And submitted as follows:

1. Introduction

1. In 2006, Telkom Kenya (TK), which was fully owned by GoK at the time, completed its National Backbone fibre installation between Mombasa-Nairobi-Nakuru-Eldoret-Malaba with a spur from Nakuru-Kericho-Kisumu
2. The fibre was installed as part of the East Africa Digital transmission (Kenya portion) to connect the country and the rest of the East Africa countries to the Internet via the under-sea cables (TEAMS &EASSy) that had landed at Mombasa Telephone House.
3. With full realization of the improved digital connections arising from TK's fibre and with growing demand for digital content for government purposes, MoICT was mandated to construct a public backbone fibre infrastructure to deliver government services leveraging on existing TK fibre presence to cover the then 8 provincial HQs & the far rural districts (NOFBI 1).
4. The Telkom Fiber Network completes the NOFBI backbone fibre in some areas. Government did not build backbone fibre where Telkom was present as TK was mandated to provide a pair of cores to close/bridge the gap. The NOFBI network was designed prior to TK's privatisation. NOFBI Services therefore run on both NOFBI cable and TK fiber. TK does not charge GoK for use on NOFBI.

2. NOFBI 1 Contracts

1. Telkom was engaged to offer project management services for the NOFBI Cable c. 2006 when Telkom was still a government agency.
2. With TK's privatization, GoK & TK entered into a project management agreement on 7th February 2008.
3. Having previously carried out the supervisory role for the construction of NOFBI on behalf of government, TK had proven that it had the requisite professional, personnel and technical expertise.
4. TK entered into an Operations and Maintenance Contract with MoICT in February 2010. Under this contract, TK was to provide O&M services for a monthly payment of c. KShs.20.3M.
5. Following delays by MoICT in settling the O&M charges, parties agreed to replace the 2010 contract effective 1st June 2011. The new contract provided that TK would commercialize the NOFBI infrastructure, settle the incurred O&M costs from the realized revenues and split the net profit with MoICT on a 50/50 basis.

3. Contractual Provisions

1. **February 2008 – Agreement for Project Management Services between GoK thru' MoICT and TK**

Terms of Reference

i. Act as the project manager for the construction of the NOFBI project
ii. Provide technical, administrative and legal services during implementation and commissioning
iii. Monitor and manage the execution of the contract to ensure compliance to plan of works provided in the contract
iv. Ensure that the contractual rights and obligations of parties are met as well as manage disputes arising out of the contract
v. Oversee the smooth handing over of the project
vi. Supervise the implementation of the construction contracts.

2. **February 2010 – Operations and Maintenance Agreement between GoK thru' MoICT and TK**

Overview of NOFBI operation and Maintenance contract 2010

Clause no.	**Topic**	**Explanation**
Recitals	Reason for engagement	TK had previously overseen the construction of NOFBI and had experience from years of managing a nationwide network.
3	Duration and term	Contract period for a term of twenty four months subject to any variation. ***Parties executed a new agreement in 2013 with an effective date of 1st June 2011.***

<table>
<tr>
<td>Annexed Offer Letter from MoICT</td>
<td>Scope of Work</td>
<td>TK to provide:

A service Management Centre housing a centralised time network monitoring system and network operations centre
Fully equipped optic fibre cable field intervention teams that are located all over the country to ensure shorter resolution times on repairs
Spares management
Operation and Maintenance of all active devices equipment supplied by vendors of NOFBI
ODF Management

</td>
</tr>
<tr>
<td>Appendix 2</td>
<td>Schedule of Costs</td>
<td>GoK to settle the O&M costs, computed as follows:
<table>
<tr><td colspan="2">Monthly Recurrent Charge</td></tr>
<tr><td>Total Collocation charges in 58 TK sites</td><td>Shs 4,500.000.00</td></tr>
<tr><td>Total duct occupancy charges in TK ducts</td><td>Shs 313,964.00</td></tr>
<tr><td>Total collocation charges</td><td>Shs 4,813,964.00</td></tr>
<tr><td colspan="2">Operatio and Maintenance Charges (Activ</td></tr>
<tr><td>Service Management Centre</td><td>Shs 1,100,000.00</td></tr>
<tr><td>Field Intervention</td><td>Shs</td></tr>
<tr><td>Spare Management</td><td>Shs</td></tr>
<tr><td>Maintained Power</td><td>Shs</td></tr>
<tr><td>Contractor Management</td><td>Shs</td></tr>
<tr><td>Logistics and administration</td><td>Shs 1,836,800.00</td></tr>
</table>
</td>
</tr>
</table>

		Total O&M charges	**Shs 15,448,000.00**
		Total	***Shs 20,261,964.00***
		Variable Charges (Passive devices)	
		Man hours per man per hour	Shs 2000
		Incident reporting per incident	Shs 5000
		Other variable rates	
		Tie wrap per packet *provision for 1 packet	Shs 781
		Splicing kit per kit *provision for 2 kits	Shs 29,400
		Protective sleeve per sleeve *provision made for 48	Shs 1,093
		Testing for each unit *provision made for 24	Shs 2,343
		ODF Cable 24 core per meter *provision made for 1	Shs 210
		Draw wire per meter * provision made for 1	Shs 31
Appendix 2	Additional terms	• The Company shall use the lit pair at its discretion. • Additions to the NOFBI infrastructure to be charged based on this model	

3. **June 2011 –Management of NOFBI Backbone Agreement between GOK thru' MoICT and TK**

Overview of NOFBI operation and Maintenance contract 2011

Clause no.	Topic	Explanation
Recitals	Purpose of the contract	Telkom to provide management services of NOFBI on behalf of government which were; • Full technical O&M of dark fibre and telecoms services • Commercialization of the dark fibre and telecoms services
		Effective date was 1st June 2011 although the contract was executed in 2013. It superseded the 2010 O&M Agreement
4	Duration and term	Initial contract period was for 5 years commencing 1st June 2011. There was an option to renew for a further 5 year term on terms to be agreed upon by parties. Initial term expired on 31st May 2016 and we rolled over the contract for a further 5 years which ends 31st May 2021.
5.	Duties & Obligations of the parties	Telkom had full discretion to; • define the marketing and commercial approach of the commercialization of the dark fibre services, • re-organize NOFBI telecom services and • select and deploy preferred equipment on NOFBI • directly invoice NOFBI customers The rates in use were determined by MoICT

6.	Terms and Payment terms and Conditions	The parties to share net profits generated from TK commercializing dark fibre services only. The revenue share of net profits was 50/50 Net profit is calculated as revenue generated by NOFBI dark fibre services minus all direct and indirect costs for generating these revenues. Telkom invoices the customers directly and collects payment. In the event of force majeure, Telkom can be compensated for additional costs incurred for O&M.

4. Commercialization of NOFBI 1

4.1. Revenues

I. TK and ICTA recently carried out an extensive joint audit to determine availability and usage on NOFBI.2 The Audit conclusions were consistent with information reported by TK.

II. Dark Fiber is utilized by TK (TK Links 3,862kms – 17.4%), SFC (4,768kms – 20.0%), JTL (655kms – 2.8%), KENNET (1224kms- 5.1%), Wananchi (92Kms - 0.4%). GoK total usage on NOFBI (excluding KENNET) comprises 12,915Kms (54.3%). At 54.3%, GoK is the largest user of the NOFBI cable.

III. Sensitive GOK services running on NOFBI include MOD links (199.1kms) and other GoK agencies (973kms).

IV. TK sells its lit capacity on NOFBI to Wananchi, Airtel, Kaysalt and Sanmarco.3

4.2. O&M Costs

I. The applicable O&M costs were assessed in 2010 and have been maintained at the same rate without any escalation for inflation.

II. Although the O &M charges cover minor repairs such as fiber cuts, major repairs are done by MoICT. O&M does not extend to capital expenditure.

III. To date TK has billed customers a total of c. 1.7B and has incurred O&M costs worth c. 2.0B resulting in a total loss of c. 0.3B

IV. TK has solely borne the O&M costs for this project since 2012 without transferring the same to GoK.

4.3. Profitability

I. NOFBI would be profitable if TK were to charge GoK for its usage.

II. TK creates value for government in that GoK uses NOFBI services free of charge. Total GoK usage since 2010 adds up to c. KShs 1.4B

5. Reporting to MoICT / ICTA

I. TK has been sharing GOK quarterly reports on usage and availability since 2011 first with MoICT then with ICTA.

II. Quarterly review meetings were discontinued in November 2019 by ICTA. ICTA now receives daily reports of network availability and usage directly from the Network Operations Centres.

Plenary

The following issues came out of plenary:

1. The Contract on Management of NOFBI Backbone Agreement between GOK thru' MoICT and TK commenced on 1st June 2011 and ended on 31st May, 2016 and the Contract has been not been renewed to date.
2. Telkom Kenya pays for the insurance of the Fiber

Submission from M/S Internet Solutions

2304) Mr. Richard Hechle the Managing Director Internet Solution appeared before the Committee on 17th November 2020accompanied by Mr. Ndungu Njoroge, Head of Networks

and submitted as follows:

1. **Whether M/S Internet Solutions Kenya pays NOFBI user data levies to the Government or any other organization**

2305) The M/S Internet Solution (IS) currently does not purchase capacity directly from NOFBI. IS's National backbone services are bought through other providers namely Wananchi, Liquid Telkom, Safaricom and Telkom. This is along routes such as Nairobi to Mombasa, Nakuru, Eldoret, Kisumu, Nyeri, Nanyuki, Kakamega and Meru.

2306) According to IS, it was not clear whether any of their partners use NOFBI to deliver the services to Internet Solutions as it is not stated in the respective contracts. Schedule of contracts with referenced providers and/or some supporting invoices together with a representation of the IS network showing the national backbone capacity was attached.

2. **Whether the Accounting Officer /PS ICT has ever initiated a discussion on charging IS any user fees or levies for use of NOFBI**

Since IS does not purchase capacity from NOFBI directly, there has not been a discussion with the PS ICT on the use of NOFBI.

3. **IS opinion on how best the Government can get value for money from National Terrestrial Fiber optic Infrastructure – NOFBI**

i) The Current commercial costs make it favorable for use by the large mobile operators only. The Cost to access the infrastructure needs to be reduced to make it more accessible to all providers including ISPs;

ii) Remove the minimum distance requirement of 500Kms;

iii) Ensure adequate maintenance and uptime of the infrastructure. The availability of services and poor maintenance in some areas has been a major issue;

iv) Look at an open access model where providers pay a fixed cost towards maintaining the asset are then entitled to open access and the use of across all areas of the network. There was a proposal for a consortium of providers to invest in the network similar to TEAMs;
v) Look at an independent operator to manage the infrastructure and not a single telecommunications service provider;
vi) Offer capacity and other services on NOFBI infrastructure i.e. diversify from just proving the passive fiber connection;
vii) Innovative Financing options that allow providers to reduce the initial outlay required to onboard and have a pay-as-you-grow model, which can be financed with a growing client base;
viii) The Kenyan Government should consider encouraging Inter-government infrastructure connectivity for example between Kenya and Uganda or Kenya and Rwanda through NOFBI Infrastructure by negotiating capacity prices to encourage and increase the use of NOFBI infrastructure.

Submission from Huawei Technologies Company Kenya Limited

2307) Mr. W. W. Meng the Chief Executive Officer appeared before the Committee on 17th November, 2020 accompanied by the following officers.

1. Mr. Adam Lane - Deputy CEO Public Affairs
2. Mr. Michael Maina - Director Legal manager
3. Mr. James Sing - External Lawyer
4. Mr. Joseph Liu - Huawei

2308) and submitted as follows:

1. The NOFBI phase 1 contract costed 42,000,000 USD while phase 2 costed 72,000,000 USD and phase 2 expansion costed 98,000,000.65 USD
2. The entire NOFBI contracts costed 212,000,000 USD
3. All this monies have been paid to Huawei except a balance of 8,5000,000 USD out of 98,000,000.65 USD for phase 2 expansion
4. Also not paid is 12,000,000 USD that has not been invoiced bringing a total of outstanding payment to 20,000,000 USD
5. The works for phase 1 was done by Huawei and other two firms ZTE from China and Sagem from France.
6. The 1st Contract was an Open Tender while the second contract was a bilateral agreement between Government of Kenya and Government of the Peoples Republic of Chinese.

Plenary

2309) The CEO classified the kind of procurement method to NOFBI 2 tender as a Government to Government agreement. However, the CEO was not able to provide the Bilateral/ Multilateral Agreement or MOU between the Government of Kenya and Government of the Peoples Republic of Chinese. The CEO was also unable to provide any offer letter from the Ministry of ICT to undertake the works or any letter of award from any source. There was no letter of acceptance from Huawei Technologies and neither was there any financing agreement between the two Governments.

Further submission from Huawei Technologies Company Kenya Limited

2310) Mr. W. W. Meng the Chief Executive Officer appeared before the Committee on 17th November, 2020 accompanied by the following officers.

1. Mr. Adam Lane - Deputy CEO Public Affairs
2. Mr. Michael Maina - Director Legal manager
3. Mr. James Sing - External Legal Counsel
4. Mr. Kevin Weu - Head of Enterpise
5. Mr. Rutri Shah - External Legal Consultant
6. Ms. Ellen Njeri - Pupil to James Singh

2311) and submitted as follows:

1. That they did not have any copy of any document in support of their contract with the Ministry of ICT & innovation to construct the NOFBI infrastructure.
2. That they had written to the National Treasury requesting for them to assist them with any documents in their custody with success.

Plenary

2312) The Committee deliberated on the situation and resolved as follows:

(1) That Huawei should appear next in the company of the Principal Secretaries National Treasury and ICT & Innovation;
(2) That Huawei should provide information on other existing Contracts with the Government of Kenya including Konza City Project among others;
(3) That Huawei should provide their Tax Compliance certificates;
(4) That Huawei's status of registration should be clear;
(5) That directorship of Huawei should be declared. A list to be provided

Submission from Airtel Kenya Limited

2313) Mr. Prasanta Das Sarma, the Chief Executive Officer and the Accounting Officer for Airtel Kenya Limited appeared before the Committee on 27th October 2020 accompanied by the following officers: -

5. Mr. Shailedron Singh - Director Finance
6. Mr. Hussein Versi - Network Director
7. Ms. Joy Nyaga - Director Legal & Regulatory Affairs
8. Mr. Ramadhan Ramadhan - HOD TRM Planning
9. Mr. Henry Nyangure - Director Supply Chain

2314) And submitted as follows: -

1) Since 2012, Airtel Kenya Ltd has been making payments to Telkom Kenya with regard to the use of NOFBI Infrastructure. Copies of receipts and vouchers were provided for review and verification;

2) Airtel Kenya was aware that the Contract between Telkom Kenya Ltd and the Ministry of ICT & Innovation on the management of NOFBI Infrastructure was expired;

Further submission by Airtel Kenya Limited

2315) Mr. Prasanta Das Sarma, the Chief Executive Officer and the Accounting Officer for Airtel Kenya Limited appeared before the Committee on 27th October 2020 accompanied by the following officers: -

1. Mr. Hussein Versi - Network Director
2. Ms. Joy Nyaga - Director Legal & Regulatory Affairs
3. Mr. Ramadhan Ramadhan - HOD TRM Planning
4. Dr. Katherine Getao - CEO ICT Authority

2316) And submitted as follows: -

1. Airtel Kenya Kenya Ltd is a registered telecommunications company in Kenya incorporated under registrar of companies act and licensed by the Communications Authority of Kenya under Kenya Information and Communications Act, 1998 and Kenya Information and Communications (Amendment) Act, 2009;
2. It is a part of the Airtel Africa which is also headquartered here in Kenya;
3. The Company provides GSM services and mobile money services;
4. In provision of this services, Airtel Kenya Ltd utilizes 3rd party fibre (Capacity) from Safaricom, Telkom Kenya – 2011 and Jamii Telecommunication Limited;
5. It leases capacity from Telkom Kenya for the area covering Mombasa to Garissa, Rongo to Kisumu and Kitui under the NOFBI;
6. The Company entered into a Service Order Agreement with Telkom Kenya for a protected link (NOFBI) between Mombasa to Garissa, Rongo to Kisumu and Kitui. Airtel Kenya pays USD58,000.00 minus VAT the per month;

Asked where the documents he was referring to were, the CEO had this to say:

7. Copies of documents referred to will be provided as follows:

Service Agreements between Telkom Kenya Ltd and Jamii Telecommunications Ltd;

i) Service Order Forms
j) Invoices for services rendered by Telkom Kenya Ltd and Jamii Telecommunications Ltd; and
k) Proof of payment for the related service since inception

Committee Observations and Findings

2317) The Committee observed and found that:

1) The Accounting Officer had not received any levies from the usage of the NOFBI Infrastructure;
2) All data service providers including Safaricom Plc, Airtel Kenya Limited, Internet Solutions, Jamii Telecommunications Limited, Wananchi Kenya Limited and Liquid Telecom who use NOFBI Infrastructure pay for its usage directly to Telkom Kenya Limited. They have all paid up to date;
3) The project was implemented in three phases at different costs and Contracts signed for each Phase as follows:
   (i) NOFBI Phase I - 2005 (KSh. 4.2 billion)

(ii) NOFBI Phase II - 2012 (KSh. 7.2 billion)
(iii)NOFBI Phase II Expansion - 20114 (KSh. 9.8 billion);

4) Contractors for Phase I (Huawei Technologies Limited and two others) were procured through competive bidding process.
5) However, the process through which Huawei Technologies Limited was contracted to implement Phase II and Phase II Expansion remains unclear.
6) Payments were being made directly from the National Treasury to the Contractor (Huawei Technologies Limited) without passing through the Client (Ministry of ICT and Innovation);
7) The Ministry of ICT and Innovation was not billing the commercial data service providers for use of the NOFBI infrastructure directly;
8) Telkom Kenya was managing the NOFBI through an Agreement with the Ministry of ICT and Innovation that expired in 2016 and which has not been renewed or extended to-date;
9) Telkom Kenya had not remitted any levies collected from the commercial data service providers to the Government as per the terms of the now expired Agreement;
10) Telkom Kenya claimed that between 2012 and November 2020, it had collected KSh. 1.7 billion from the users of NOFBI but had incurred expenses totalling KSh. 2 billion in the maintenance and operation of the infrastructure over the same period. This was not verifiable;
11) The matter, therefore, remained unresolved.

Committee Recommendation

2318) The Committee recommended that:

The Auditor-General undertakes, within sixty (60) days upon tabling and adoption of this report, a forensic audit on the entire scope of the NOFBI project (from inception to completion, including operations and management) and report back to the National Assembly.

877. Use of Goods and Services

2319) The statement of receipts and payments reflects an amount of KSh.172,456,843 under use of goods and services which includes an amount of KSh.32,965,439 under domestic travel and subsistence which had the following anomalies:

i. An amount of KSh.1,462,207 included in domestic travel and subsistence relates to impressts issued during the financial year which as per the IFMIS records had not been cleared as at 30 June 2018. However, the manual imprest register and the financial statements indicates that the outstanding imprests as at 30 June 2018 was KSh.260,600. No reconciliation between the two sets of records appear to have been done.
ii. An amount of KSh.3,132,500 included in the domestic travel and subsistence allowances related to payments made to officers undertaking their normal daily duties/or for activities not in line with the mandate of the State Department of ICT and Innovation.

2320) Consequently, the propriety and accuracy of the expenditure on use of goods and services of KSh.172,456,843 could not be confirmed.

Submission by the Accounting Officer

2321) The Accounting Officer admitted that IFMIS records had Ksh1,463,207 as outstanding imprests against manual records which had Ksh260,600 resulting a difference of Ksh.1,202,607. This difference resulted from use of wrong surrender dates i.e use of 2018/2019 dates for surrenders captured after 30th June 2018. The errors have since been corrected. The correcting journal entries and the revised notes to the financial statements 2017-2018 were attached for perusal by the Committee.

2322) Further, Kshs.3, 132,500, was paid as subsistence allowance to officers who worked on various task forces, some tasks required working beyond normal working hours. Some officers were paid for providing ancillary services during national functions. The supporting documentations are available for review.

Committee Observations and Findings

2323) The Committee observed and found that:

1) The explanation by the Accounting Officer to confirm the propriety and accuracy of the expenditure on use of goods and services of KSh.172,456,843 was satisfactory; and
2) The Committee marked the matter as resolved.

878. Transfer to Other Government Units

2324) The transfer to other government units figure of KSh.7,717,448,531 as reflected on statement of receipts are payments includes KSh.7,257,433,531 transfers to Information Communication and Technology Authority (ICTA). However, corresponding receipts reported in ICTA's Financial Statements for the year ended 30 June 2018 is KSh.6,846,818,478 resulting in a variance of KSh.410,615,053. Out of the variance KSh.370,000,000 was cash on transit thus leaving unexplained variance of KSh.40,615,054. Further, information available indicates that an amount of KSh.914,878,532 was disbursed to ICTA on 9 July 2018 which was nine days after the closure of the financial year. No explanation has been provided on the treatment of the transaction under bank since they do not feature in the bank reconciliation.

2325) Consequently, the accuracy of the figure of KSh.7,717,448,531 in respect to transfers to Other Government Units for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

2326) The Accounting Officer admitted that there was a variance of Ksh.410,615,053 between financial statements for State department for ICT and ICT Authority out of which 370,000,000 was adequately explained leaving a variance of Ksh.40,615,054. The exchequer funding for these payments was received on 5th July, 2018 by the State Department and subsequently transferred to ICT Authority on 9th July, 2018. The bank statement indicating movement of funds was attached. Therefore, the funds reflected into ICTA bank account in

July, 2018 of which ICTA recognized these funds in the FY 2018/2019 as differed income. ICTA’S financial statements for FY 2018/2019 was availed to the Committee.

2327) The Ksh.914, 878, 532 disbursed to ICTA had been recognized in the development bank reconciliation for the month of June, 2018 and a copy of the same was availed to the Committee.

Committee Observations and Findings

2328) The Committee observed and found that:

1) The explanation by the Accounting Officer to ascertain the accuracy of the figure of KSh.7,717,448,531 in respect to transfers to Other Government Units for the year ended 30 June 2018 was satisfactory; and
2) The Committee marked the matter as resolved.

879. Proceeds from Foreign Borrowings

2329) The statement of receipts and payments reflect a figure of KSh.3,585,320,143 as proceeds from foreign borrowings for the year ended 30 June 2018. The borrowing are alleged to have been direct payments made by National Treasury to two contractors working on the National Optic Fiber Backbone Infrastructure (NOFBI) and on the County Connectivity Project. However, projects had no Verification and Acceptance Committee to authenticate that the work done was in line with contract and met the user specifications.

2330) Consequently, the accuracy, validity and completeness of the proceeds from foreign borrowings of KSh.3,585,320,134 could not be ascertained.

Submission by the Accounting Officer

2331) The Accounting Officer admitted that the Statement of receipts and payments reflect a figure of Kshs.3, 585,320, 143 as proceeds from foreign borrowing for the year ended 30th June 2018. The borrowing was made as direct payments made by National Treasury to two contractors, one working on the National Optic Fibre Backbone Infrastructure (NOFBI) and the other one working on the County Connectivity Project (CCP).

2332) The Accounting Officer submitted that The Public Procurement and Disposal Act, 2015 and The Public Finance Management Act, 2012 Section 68 (1) (d) requires compliance with all contracts entered by the State Department. The payment provisions under NOFBI commercial contracts section 11.3 required issuance of certificate of operational acceptance as proof of work done. These certificates were issued by representatives of the State Department after field inspections by a team of officers. Copies of the certificates and field inspections reports were availed to the Committee. CCP payments related to advances and surveys and therefore did not require inspections and acceptance committees.

Committee Observations and Findings

2333) The Committee observed and found that:

1) The Accounting Officer had not provided evidence of appointment of Inspection and Acceptance Committee;

2) The survey required Government certification which was not provided;
3) The CCP services required Government certification which was not provided; and
4) The matter was therefore unresolved.

Committee Recommendation

2334) The Committee recommended that:

1) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for incurring expenditure of KSh.3,585,320,143 as proceeds from foreign borrowings direct payments made by National Treasury to two contractors working on the National Optic Fiber Backbone Infrastructure (NOFBI) and on the County Connectivity Project. However, projects had no Verification and Acceptance Committee to authenticate contrary to the provisions of section 196(1) and 197 of the Public Finance Management Act, 2012.**
2) **Where the Accounting Officer fails to provide an explanation, the Accounting Officer (during the period under review) should be surcharged Ksh.69, 810,180.60 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

880. Fixed Assets Register

2335) The financial statements indicates that the total fixed assets owned by the State Department of ICT and Innovation stood at KSh.6,853,982,467 as at 30 June 2018. However, no detailed fixed asset register was maintained by the State Department specifying date of acquisition, name, serial numbers and location of the individual assets/ item. Consequently, it has not been possible to ascertain the completeness and accuracy of the fixed assets balance of KSh.6,853,982,467 as at 30 June 2018.

Submission by the Accounting Officer

2336) The Accounting Officer submitted that the difference was an arithmetic error which has since been corrected for the revised summary of fixed asset register. The fixed asset register specifying the date of acquisition, name, serial numbers and location of the individual assets have since been finalized and submitted to the Auditor General for review**.**

Committee Observations and Findings

2337) The Committee observed and found that:

1) The explanation by the Accounting Officer to ascertain the completeness and accuracy of the fixed assets balance of KSh.6,853,982,467 as at 30th June 2018 was satisfactory;
2) The Fixed Assets Register provided for Ksh.6,497,499,704 was provided, reviewed and verified by the Auditor General; and
3) The Committee marked the matter as resolved.

Committee Recommendation

2338) The Committee recommended that:

The matter be rersolved.

881. Pending Bills

2339) The financial statements reflect pending bills amounting to KSh.21,401,924 as at 30 June 2018. Failure to settle bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they form first charge. Had the bills been paid and expenditure charged to the accounts for the year 2017/2018, the statement of receipts and payments for the year would have reflected a deficit of KSh.20,673,353 instead of the net surplus of KSh.728,571 reported.

Submission by the Accounting Officer

2340) The Accounting Officer submitted that the pending bills were not paid due to underfunding of the exchequer requisition of Ksh.138,858,867.30 out of which only Ksh.16,455,000 was funded resulting to a balance of Ksh.122,403,867 (see Appendix 20A for exchequer requisition and exchequer issue notification). However, all these bills were settled in the subsequent financial year 2018- 2019 as first charge and a copy of the financial statement 2018-2019, indicating the paid pending bills was attached for perusal by the Committee.

2341) In addition, had the payments been made in FY 2017-2018, the deficit of Ksh.20,673,353 would not have occurred since payments could have been made against an equivalent receipt of exchequer.

Committee Observations and Findings

2342) The Committee observed and found that:

1) The pending bills were settled in the subsequent financial year 2018- 2019 as first charge and a copy of the financial statement 2018-2019, indicating the paid pending bills was attached; and
2) The Committee marked the matter as resolved.

882. The Year's Adjustment

2343) The statement of assets and liabilities as at 30 June 2018 reflects the year's adjustment balance of KSh.(386,750) while 2016/2017 figure was KSh.2,666,805 whose nature and analysis was not made available for audit review.

Submission by the Accounting Officer

2344) The Accounting admitted that the statement of assets and liabilities as at 30/6/2017 reflected the year's adjustment balance of (386,750) while 2016/17 figure was Ksh 2,666,805. The amount arose as a result of the difference between the manual and IFMIS. The IFMIS figures had challenges in the reversal of encumbrances leading to increase in expenditure and therefore this difference. The manual figure reflected the actual positions.

2345) However, the Accounting Officer engaged IFMIS team from the National Treasury and the same was adjusted as copies of journal entries and the revised statement of Assets and liabilities, and statement of receipts and payments were submitted for audit review and also availed for perusal by the Committee.

Committee Observations and Findings

2346) The Committee observed and found that:

1) The Accounting Officer had confirmed balancing of prior year adjustments. Copies of journal entries and the revised statement of Assets and liabilities, and statement of receipts and payments were reviewed by the Auditor General; and
2) The matter was marked as resolved.

883. Prior year issues

883.1 Acquisition of Assets

<u>This matter was considered and resolved by the Committee in the report of 2016/2017.</u>

883.2 Transfers to other Government Units

<u>This matter was considered and resolved by the Committee in the report of 2016/2017.</u>

<u>The Committee observed that Paragraph 884 to 886 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

Other Matter

887. Annual work Plan and Budget

2347) Examination of the annual work plan and budget revealed that they were not submitted to the Donor for approval on 1 May before implementation as required by the Donor- (International Development Association-IDA) Finance Agreement Schedule 2 F. The project was therefore operating on an unapproved annual work plan and budget thus in breach of the financing agreement.

Submission by the Accounting Officer

2348) The Accounting Officer submitted that the annual work plan and budget for the year under review were duly approved by the board of ICT Authority. The EARTTDFP budget follows the normal GOK procedure where the estimates are eventually consolidated into the State Department budget.

Committee Observations and Findings

2349) The Committee observed and found that:

1) The Audit issue was that the Annual work plan and budget had not been approved by the donor as per the requirements of Financing Agreement; and
2) The matter was therefore unresolved.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

2350) With regard to the matter of paragraph 876, the Accounting Officer further informed the Committee as follows: -

i. All Directors at Huawei Technologies Limited were Chinese;
ii. There were no documents on Huawei engagement or contraction for NOFBI II and II Expansion with regard to data;
iii. Data service providers have not been remitting service charges or levies of any kind to the government in form of Appropriations In Aid (AIA) for usage of the NOFBI infrastructures;
iv. The Ministry of ICT was in-charge of the infrastructure while Telkom Kenya was in-charge of the supports services

888. Unrealistic Budget

2351) Examination of the statement of comparison of the budget and actual amounts shows that the budget appears to have been unrealistic. For instance, budgeted project salaries and purchase of goods and services underperformed by 63% and 83% respectively. No plausible explanations have been provided for this anomaly.

Submission by the Accounting Officer

2352) The Accounting Officer submitted that the underperformance on goods and services was occasioned by delays in the procurement of the fibre optic cable due to the requirement by the World Bank of undertaking of an Environmental and Social Safeguards Study.

2353) This has since been undertaken and the relevant projects are on track for completion. The rehabilitation of the existing fibre optic is currently completed up to Lodwar (from Eldoret) and the installation of the high capacity 144 core fibre to Nadapal/Nakodok is planned to begin July 1, 2020. The uptake of the budgetary provisions will now be at peak.

Committee Observations and Findings

2354) The Committee observed and found that:

1) The explanation by the Accounting Officer with regard to the underperformance of the budgeted project salaries and purchase of goods and services by 63% and 83% respectively was satisfactory; and
2) The Committee marked the matter as resolved.

889. Delayed Project Implementation

2355) The project was started in November 2015 with an expected completion date of December 2021. The total estimated budget/funding for the project amounts to SDR 18,500,000 (USD 29,500,000) and equivalent to KSh.2,979,795,000. As at the time of audit, 50% of project time had elapsed. However, the accumulated expenditure as at 30 June 2018 amounted to KSh.58,405,735 which translates to approximately 1.7% of the estimated budget of the entire project. Consequently, expenditure level casts doubt on full absorption of the project funds within the project period and the project may not achieve its objectives within the stipulated time.

Submission by the Accounting Officer

2356) The Accounting Officer submitted that the procurement of the fibre optic cable was delayed due to the requirement by the World Bank of the undertaking of an Environmental and Social Safeguards Study. Secondly, the roads works from Nadapal/Nakodok to Eldoret had been commenced by the time of signing the contract for the rehabilitation. The road construction caused extensive damage to the hitherto existing fibre. This necessitated the contract to be reviewed to capture the realities on the ground. This caused a delay in commencement of works and equally more time than initially planned was granted. The rehabilitation of the existing fibre optic is currently completed up to Lodwar (from Eldoret) and the installation of the high capacity 144 core fibre to Nadapal/Nakodok is planned to begin July 1, 2020.

2357) The destruction of the fibre by the road construction prompted to the ICT Authority to petition the Bank and the Kenya National Highways Authority (KENHA) to come up with a modality for integrated infrastructure construction and delivery. Following this proposal by ICTA, the approach was changed where KENHA undertook the civil works necessary and installation of ducts ready for fibre blowing. ICTA retained the responsibility of installation of active equipment and fibre blowing. The change in approach took some time to be agreed by all the parties, inn this case the World bank, KENHA and ICTA. As a result, the technical requirements had to be revised before procurement could begin.

2358) Lastly, the ICT Authority was operating without a full staff complement and augmented by consultants on EARTTDFP matters. The Authority has now recruited and added to its number competent staff with the requisite skills and experience. A full Project Implementation Team (PIT) has also been appointed including a full time positions for specialists in procurement, finance and, monitoring and evaluation. The project completion stands at 85% as per the World Bank mission report (December 2019) herewith attached.

2359) The strengthening of the PIT and conclusion of the Environmental and Social Safeguards report as per World Bank requirements having been finalised, the time taken to complete remaining activities is expected to be shortened.

Committee Observations and Findings

2360) The Committee observed and found that:

1) The explanation by the Accounting Officer to obliterate doubts cast on full absorption of the project funds within the project period and that the project may not achieve its objectives within the stipulated time was not satisfactory;
2) There were security and boundary challenges between Kenya and South Sudan affecting between Nandapal and Nakodol;
3) The project was redesigned from Eldoret to Nakodol to meet emerging challenges where microwaves are used as opposed to fibre; and
4) The matter therefore remained unresolved.

2361) Except for the issues described in the Other Matter, there were no material issues noted on lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

890. Lack of Segregation of Duties

2362) An examination of the Internal Control System of the Project revealed an inadequacy in the internal control function. The person charged with the responsibility of inspection and approval of the design done by the consultant is the project manager, who also approves the payment. This is contrary to the requirement of segregation of duties as an internal check thus exposing the project finances to misappropriation.

Submission by the Accounting Officer

2363) The Accounting Officer submitted that the a multi-skilled Project Implementation Team for EARTTDFP has been constituted in full and reports to the ICTA Projects Steering Committee and to the Board of Directors, Projects and Standards Committee. Additionally, a separate Inspection and Acceptance Committee also been constituted in line with the Public Procurement and Disposal Act to strengthen internal controls.

Committee Observations and Findings

2364) The Committee observed and found that:

1) The explanation by the Accounting Officer with regard to the requirement of segregation of duties as an internal check to avoid exposing the project finances to misappropriation was not satisfactory; and
2) The matter therefore remained unresolved.

27.0. STATE DEPARTMENT FOR BROADCASTING AND TELECOMMUNICATIONS

FINANCIAL STATEMENTS FOR VOTE 1123

Ms. Esther Koimett, the Principal Secretary and Accounting Officer for the State Department for Broadcasting and telecommunication (Vote 1123) appeared before the Committee on 15th June 2020 to adduce evidence on the Audited Financial Statements of the State Department for Broadcasting and telecommunication (Vote 1123) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

Dr. Naim Bilal	- Managing Director, Kenya Broadcasting Corporation
Mr. Edward Mwasi	- Chief Executive Officer, Kenya Yearbook Editorial Board
Ms. Juliana Yiapan	- Secretary Administration
Mr. Gwaro Ogan	- Director, Government Advertising Agency
Ms. Lucy W. Kamau	- Head of Accounting Unit
Ms. Beldine Omolo	- Senior Principal Finance Officer
Ms. Helen Muchiri	- Principal Accounts Controller
Mr. Henry Omondi	- Kenya Broadcasting Corporation
Mr. Kennedy O. Omari	- Ass. Director Supply Chain Management

And submitted as follows:

891. Cash and Cash Equivalent

2365) The cash and cash equivalents balance of KSh. 58,707,018 as reflected on the statement of assets and liabilities includes deposit account balance of KSh. 38,659,849, recurrent account balance of KSh. 20,020,521, development account balance of nil and cash in hand amounting KSh. 26,648. However, the bank reconciliation statement for the development bank account which had a nil balance reflected a payment of KSh. 11,600,000 to a Corporation on 30 June, 2018 that had not cleared as at the year end. Further, no documentation was made available to show when the amount was cleared neither was there any confirmation of receipt of the monies by Kenya Broadcasting Corporation.

2366) In addition, the bank reconciliation statement for the recurrent bank account had unpresented cheques amounting to KSh. 66,491,679 all of which could not be matched to the amounts cleared subsequent to the year-end up to and including the time of the audit as the bank statements were not provided for audit examination. Out of the unpresented cheques of KSh. 66,491,679, KSh. 241,269 were stale as at 30 June 2018. Further, the recurrent account bank reconciliation statement reflected payment in bank statements not in cash book totalling KSh. 1,436,558 for which no explanation was provided for non-inclusion in the cash book. Also, the recurrent account reconciliation statement reflected uncredited receipts amounting to KSh. 46,332,522 that had no proof of having been banked as at the time of the audit and no explanation was provided for non-banking of this cash.

Submission by the Accounting Officer

2367) The Accounting Officer submitted that the payment of Kshs 11,600,000 to Kenya Broadcasting Corporation posted in the cashbook on 30th June 2018 cleared in the Bank statement on 6th July 2018, EFT no FT18187PMJK0. Bank Statement was attached for perusal by the Committee.

2368) The Accounting officer reported that payments in cashbook not in bank statement of 66,491,679 were cleared in the bank statement in the month of July 2018. The bank statement has since been availed to the Auditor for verification. The remaining Kshs. 882,320.70 which includes the Kshs 241,269.70 were reversed from the cashbook on the 28th of June 2019. Cashbook Extract was attached for perusal by the Committee

2369) The uncredited receipts amounting to Kshs 46,332,522 were cleared in the bank statement in the month of July 2018. With regard to the unrecorded transactions of Kshs 1,436,558, an amount of Kshs 221,795 has already been cleared as below.

Date	Chq No	Particulars	Amount	Remarks
3-Apr-17		Habel Shiloli	70,000.00	Imp 2735347 posted in the cashbook on 3rd March 2020 ***(Appendix 891.2: CashBook Extract)***
7-Feb-18		Reversed transaction (cheque)	70,000.00	posted in the cashbook on 29th March 2019
2-May-18		Gusii Mwalimu Sacco	81,795.00	It was noted to be outstanding (payments in cashbook not in bank statement) ***cleared in Bank Statement***
TOTAL			**221,795.00**	

However, some payments relate to the documents for Media Houses. These are still in the custody of the DCI, the payment vouchers will be posted in the cash book when they are received back to the State Department. Below is the detailed analysis.

Payments in Bank Statement not in Cashbook R1123………………………………………………………………...……30-06-18				
Date	**Chq No**	**Particulars**	**Amount**	**Remarks**
23-Feb-17		Airtel Networks	54,763.55	
27-Jun-17		Nation Media	550,000.00	Amongst documents taken by the DCI, we are waiting return of the documents to post.
23-Oct-17		Border Media Group Limited	550,000.00	amongst documents taken by the DCI, we are waiting return of the documents to post.

23-Oct-17		Tax Border Media	30,000.00	amongst documents taken by the DCI, we are waiting return of the documents to post.
29-Jun-18		VAT Nation Media	30,000.00	Amongst documents taken by the DCI, we are waiting return of the documents to post.
TOTAL			**1,214,763.55**	

Committee Observations and Findings

2370) The Committee observed and found that:

1) The explanation by the Accounting Officer to confirm the completeness and accuracy of the cash and cash equivalents balance of KSh.58,707,018 as at 30th June 2018 was satisfactory;
2) The issues on Cash and Cash equivalent had been adequately explained; and
3) The Committee marked the matter as resolved.

Committee Recommendations

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **An Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

892. Pending Bills

Note 19 to the financial statements indicates pending bills amounting to KSh. 3,214,463,515 as at 30 June 2018. The balance, however, differs with supporting schedules balance of KSh. 3,215,230,553. The resulting variance of KSh. 767,038 has not been explained and/or reconciled. Further, the supporting schedule had bills totaling to KSh. 633,748,800 that could not be authenticated since no details of the suppliers were included.

Submission by the Accounting Officer

There is a variance between Pending Bills supporting schedule figure and note.19 to the financial Statement of Kshs 767,038.00. This was occasioned by inadvertent omission of pending bills due to Jimmon Service. Therefore, pending bills as at 30th June, 2018 amounted to Kshs 3,215,230,553. The supporting schedule was availed for perusal by the Committee.

The bills amounting to Kshs 633,748.800.00 as contained in the supporting schedule relates to Mediamax Publishers Ltd (the People Daily Newspaper).

Committee Observations and Findings

2371) The Committee observed and found that:

1) The explanation by the Accounting Officer to confirm the completeness, validity and accuracy of the pending bills balance of KSh. 3,214,463,515 as at 30 June 2018 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **An Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

893. Accounts Receivable

The statement of assets and liabilities as at 30th June 2018 reflects a balance of KSh. 70,137,700 as accounts receivables. This balance is composed of outstanding government imprests of KSh. 4,285,307 and unsupported district suspense totaling KSh.65,184,350. Also, included is salary advances of KSh. 668,043 out of which KSh 505,363 belonged to officers who are deceased hence irrecoverable.

Under the circumstances, the accuracy and recoverability of the accounts receivables balance of KS.70,137,700 as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

The statement of assets and liabilities as at 30th June 2018 reflected a balance of KSh.70,137,700 as accounts receivables. This balance is composed of outstanding government imprests of KSh. 4,285,307.

<u>Outstanding Imprests</u>

Outstanding imprests have since been surrendered to the tune of Kshs. 3,046, 186 and recoveries have already been effected as per the attached payroll information.

NAME OF OFFICER OR INSTITUTION	BAL. (KSHS)	REMARKS
Joan Atieno	8,400	PV 1067
Fredrick Okelo Owiti	25,000	PV 1072
Joyce Kerubo Mageto	14,000	PV 1069
Hannah Wangui Mugo	2,800	MR 5096154
Mary Wangu Musasia	2,800	MR 5096153
Orare Mose(3)	80,000	PV 8063

David Mamai Jakaiti	100,800	PV 0990
Jacob Mutua Munyao(2)	86,800	PV 1535 AND 8040
Paul Musungu Mutuku	5,000	PV 0959
Joseph Onyango Abonyo	38,900	1839 AND 1840
Michael Omondi Okoth	53,500	PV 0271 AND 0272
Gabriel Kaunda	211,000	PV 3020
Charles Omondi Ahenda	56,000	PV 1068
Jonathan Lempapa Sosyo	67,200	PV 0157
Hulda Atieno Odero	10,000	PV 1530
Gladys Wamuyu Mungai (3)	77,600	PV 1070, 1536 AND 1074
Augustus Mutuku Munywoki (2)	148,000	PV 7528,6022 AND 8005
Sabina G Kathenya	28,000	PV 1528
Queensylvia Ogonji	15,000	PV 7197
Alex Anunda Bosire(2)	159,200	PV 7151 AND 5095
Silantoi Lilian Shukuru	54,600	PV 1009
Zabron Githongo Mburu	56,000	PV 1296
Emmanuel Simiyu Mulongo (5)	56,200	PV 6308 (10000),1534 (18900), 1071 (8400)
Emacar Buge Daniel (3)	80,800	PV 3477,3715,
Remdiana Muinde Mutile (2)	17,080	PV 2058, 0634
Peninah Wanjiru Gakuru (2)	89,100	PV 8066 AND MR 5096170
Johsnstone Kipng'etich Ketuturi	20,000	PV 2200
Ednah Gakii Mungira	7,000	PV 1529
Albert Ngari Gituku	900,800	PV 1073,1527 AND 1526-
Joseph Wakaba Mucheru	347,590	PV 8067
Caroline Wanjiku Waiti (2)	168,216	PV 1531(15000) AND
Sally Linda Washiko (3)	58,800	PV 2057 AND PV 2056
TOTAL	**3,046,186**	

Recovery through IPPD

NAME OF OFFICER	AMOUNT	REMARK
Nelly Nyanchomba Kibocha	81,250	IMPREST RECOVERED IPPD May, 2020
Justus Okari Kinanga	89,600	IMPREST RECOVERED IPPD April. 2020
Dickson Oniala Nyandiga	30,000	IMPREST RECOVERED IPPD SEP-2019
Imani Japheth	13,600	Imprest Recovered IPPD June, 2020: (Ministry of Lands)
Cleophas Okoth Awuoro	10,000	IMPREST RECOVERED IPPD SEP-2019
David Korir Cheruiyot (2)	155,600	IMPREST RECOVERED BY ICT DEPT IPPD SEP-19 (89600) PV 8062 (66000)
TOTALS	**380,050**	

Demand letters. (*Appendix 893.3: IPPD)*

Henry Masambaga Mung'asia	617,171	Letter of request for surrender documents
Regina Nzambi Mulyungi	43,400	Letter of request for surrender documents

Anthony Mwaniki Thuo	37,800	Demand letter for recovery to State Department for Interior
Dennis Chebitwey Kuko (2)	128,100	Demand letter for surrender document
Japheth Mulinge Luilu	32,600	Demand letter for surrender document
TOTALS	**859,071**	

Summary

DETAILS	AMOUNT	REMARKS
Surrendered	3,046,186	Payment vouchers
Recovery through IPPD	380,050	IPPD documents
Un-surrendered	859,071	Process on going
Total	**4,285,307**	

District Suspense

The Kshs 65,184,350 for the district suspense is broken down as follows:

DETAILS	2015/16	2016/17	2017/18	TOTAL
Balance brought/found	32,526,832.50	24,443,977.50	8,213,539.60	**65,184,349.60**
Posted	-	21,066,298.00	4,061,090.62	**25,127,388.62**
Balance carried forward	32,526,832.50	3,377,679.50	4,152,448.98	**40,056,960.98**

So far out of the Kshs 65,184,349.60 expenditure amounting to Kshs 21,066,298.00 for 2016/17, Kshs 4,061,090.62 for 2017/2018 totaling Kshs 25,127,388.64 has been captured. List of Outstanding Balances was attached for perusal by the Committee.

However, for the financial year 2015/16 the State Department has not been successful in getting the District Data. A request has been made to IFMIS department to assist with district data for the financial year from ledger information system to facilitate the process of clearing the balance of Ksh. 32,526,832.50. Letter of Request to the National Treasury was attached for perusal by the Committee.

However, the State Department has since improved in the capturing of the district data and for the year just ended 2018/19 financial year a total of Kshs. 53,276,894.4 has been captured out of the total of Kshs 55,038,611.

Salary Advance

Also, included in the report is KSh. 668,043 as salary advances which have since been recovered to the tune of Kshs 595,977 as shown in the table below from various Government Ministries Departments and Agencies. The State Department is still seeking confirmation from the Cabinet Office and the State Department for Co-ordination regarding recoveries for the remaining two cases amounting to Kshs 72,066.

Name of Staff	P/NO	Original Amount	Date Issued	Outstanding Balance June 2018	Comments/current status
Salary Advance		A	B	D=A-C	
Brown Otuya	1983097434	391,800	10.03.16	359,150	Recovered From Pensions Bi Product Dated 24 Apr 2018
Wilfred Amolo Otieno	1983091111	309,906	05.10.15	21,494	Bi – Product dated Sept-2015
Nyambura Chege Kib	1985022354	91,760	04.11.15	30,584	Recovered By Dept Of Ict As Per Attached Bi Products
Samuel Mukara	2006001151	28,406	13/14	28,406	Letter Written To The Presidency Cabinet Office On 30/10/2019
Lucy Njeri Njoroge	1986020949	10,144	13/14	10,144	Recovered Nov-19 IPPD
Japheth Luilu	1991000093	11,925	07.02.17	6,945	Recovered From Pensions Bi Product Dated 19 Nov 2018
Marolyne Nganyi	1996050645	43,660	06.10.16	43,660	Letter Written To The State Department Of Coordination On 30/10/2019
Kennedy Waziri	1988129155	69,990	15.09.17	69,990	Recovered IPPD Aug-18 To Jun-19
Florence Awuor	1979074806	27,680	25.09.17	27,680	Recovered IPPD Aug-18 To Jun-19
Esther Mbuthia	1989135638	69,990	27.11.17	69,990	Recovered IPPD Aug-18 To Jun-19
Sub-Total		**1,192,338**		**668,043**	

Committee Observations and Findings

2372) The Committee observed and found that:

1) The submission by the Accounting Officer was satisfactory.
2) The Committee marked the matter as resolved.

Committee Recommendations

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **An Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

894. Accounts Payables – Deposits and Retention

The statements of assets and liabilities indicates KSh. 38,659,849 as accounts payables balance as at 30 June 2018 all of which had been outstanding as at 30 June 2017 and earlier. The analysis provided in support did not include the date of contract and other supporting documents to authenticate the accuracy and validity of each of the disclosed balances.

Further, the cash book for deposit account reflected KSh. 1,740,000 and KSh. 792,440 paid to a Media company on 23 November 2017 and 7 February 2018 consecutively. However, the analysis of accounts payables showed the payments were made to WASREB:- KSh.1,740,000, EPZ Authority KSh.384,000 and Kenya Dairy Board KSh.408,440.
Consequently, the accounts payables balance of KSh. 38,659,849 as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

The Accounting Officer submitted that the amount of Kshs 38,659,849 shown being balances as at 30th June 2018 comprised of Kshs 37,116,181 for Government Advertising Agency and Kshs 1,543,668.00 being retention monies. These are part of the balances brought forward from the mother Ministry of Information Communication and Technology when it was split between the State Department of Information Communication and Technology and State Department of Broadcasting and Telecommunications**)** following the Executive Order No.1/2016. Copiues of the Letter for Cash held in Deposit Account and the Executive Order No. 1/2016 were availed for perusal by the Committee.

As per Treasury's Circular No. 09/2015 on centralization of Public Sector Advertisement, the State Department receives funds from Agencies for the purposes of payment for advertisement services with GAA. As such the payments are made to the respective Media houses and not back to the Agencies.

The payments of Kshs 1,740,000 and Kshs 792,440 paid to Nation Media Group as reflected by deposit Cashbook were for advertisement costs incurred by WASREB, EPZ Authority and

Kenya Dairy Board in the Daily National Media Group. Copies of the Treasury Circular, the Payment Vouchers and EFT were availed for perusal by the Committee.

Committee Observations and Findings

2373) The Committee observed and found that:

1) The explanation by the Accounting Officer to ascertain the Accounts payables balance of KSh. 38,659,849 as at 30 June 2018 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **An Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

895. Use of Goods and Services

The statement of receipts and payments for the year ended 30 June 2018 reflects expenditure of KSh.1,135,144,411 in respect to use of goods and services. However, procurement plan and corresponding payment vouchers were not provided to support the expenditure.

Submission by the Accounting Officer

The statement of receipts and payments for the year ended 30 June 2018 reflects expenditure of KSh.1,135,144,411 in respect to use of goods and services.

The Procurement plan and payment vouchers for Ksh.1,046,039,050.75 have been availed to the Auditors for verification which forms part of the payments voucher returned by the Department of Criminal Investigation (DCI). However, the remaining Kshs.89,105,360.25 are still held by the DCI.

Committee Observations and Findings

2374) The Committee observed and found that:

1) There was need for Accounting Officer to provide all required documentation for verification by the Auditor General; and
2) The matter therefore remained unresolved.

Committee Recommendations

1) **The Accounting officer should, within three months upon tabling and adoption of this report, provide all required documentation to the Auditor General for verification. The Auditor General to report back to the Committee on the verification exercise within sixty days of receipt of documents.**

2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

896. Transfers to Other Government Units

The transfers to other government units figure of KSh.1,378,175,000 could not be verified as the reported balance for individual agencies did not agree with the records of the corresponding agencies as shown below:

Name of Agency	Balance as per the financial statement	Balance as per Agency financial Statement	Difference
Kenya Broadcasting Corporation	854,100,000	842,500,000	11,600000
Kenya Year Book Editorial Board	59,325,000	88,075,000	28,075,000
The Kenya Institute of Mass Communication	207,455,000	207,487,527	32,527

The differences have not been explained or reconciled. Under the circumstance, the accuracy and completeness of the transfers to other government units could not be confirmed.

Submission by the Accounting Officer

The reconciliation between the two (2) figures are as follows: -

1. Kenya Broadcasting Corporation (KBC)

Kshs.11,600,000 being the difference in question was due to accounting treatment timing difference as the amount relates to 2017-18 financial year budget. The Agency received the amount in question on 6th July 2018 due to exchequer delay and therefore the same amount had not been included in their confirmation. A confirmation of the same was availed. Copy of the confirmation letter from KBC was availed for perusal by the Committee.

Kenya Yearbook Editorial Board.

Kshs. 28,075,000 being the difference in question relates to Development Capital Grants for 2017/18 financial year budget which was not funded by the National Treasury and therefore not disbursed. Copy of the confirmation letter from Kenya Yearbook was attached for perusal by the Committee.

Kenya Institute of Mass Communications

The State Department financial statement show a figure of Ksh.207,450,000 and for the Agency show 207,487,521 respectively occasioning the difference of Kshs.37,521 received as a cheque vide no.007512. This was due to excess Appropriation- in - Aid from Kenya Institute of Mass Communication for onwards transfer to the National Treasury vide Miscellaneous Receipt no.B 5096166 (MR).

Committee Observations and Findings

2375) The Committee observed and found that:

1) The Committee observed that the explanation by the Accounting Officer to confirm the accuracy and completeness of the transfers to other government units was satisfactory; and
2) The Committee marked the matter as resolved

Committee Recommendations

1) Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.
2) The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.
3) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015

897. Unresolved Prior Year Matters

897.1 Repetitive Employment and Retention of Casuals

The Committee observed that the issue was about the propriety of expenditure amounting to Kshs 7,335,791 relating to basic wages of Temporary Employees not confirmed.

Committee Observations and Finding

This matter was considered by the Committee in the report of 2016/2017.

897.2 Partitioning and Refurbishment work on 9th and 11th Floors Teleposta Towers

As previously reported, the Ministry through restricted tendering awarded a tender for partitioning and refurbishment of 9th and 10th floors of Teleposta Towers to the lowest bidder at a contract sum of Kshs.12,720,769. The tender was however awarded contrary to Section 29(3) of the Public Procurement and Assets Disposal Act, 2015 on use of restricted tendering which requires the entity to:-

i. Obtain written approval of its tender committee; and
ii. Record in writing the reasons for using the alternative procurement procedure.

Further, Section 73(2) of the Public Procurement and Assets Disposal Act 2015 provides that a procurement entity may use restricted tendering if the following conditions are satisfied: -

- Competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors;
- The time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured; and
- There is only a few known suppliers of the goods, works or services as may be prescribed in the regulation.

In addition, the contract price was varied by Kshs.2,819,786 representing 22.16% of the contract sum which is over 15% allowable by the procurement laws. Further, the contract duration was varied from sixteen (16) weeks to twenty-two (22) weeks with completion date being 13 August 2015. However, available information indicate that the project was completed and handed over on 7 January 2017 seventy-seven (77) weeks later. This was done in breach of Regulation 31 of the Public Procurement and Disposal Regulations 2006 which provides that for the purposes of Section 47(b) of the Act, any variation of a contract shall be effective only if the price or quantity variation is to be executed within the period of the contract.

Perusal of the Bill of quantities indicated that the following was included of which no documentary evidence was provided for audit verification to show how the amounts were spent: -

	Kshs
Provide for project management expenses	200,000
Provide for contingencies	500,000
Preliminary expenses	400,000
TOTAL	1,100,000

The Ministry was therefore in breach of the public procurement law and regulations thereby casting doubts as to whether the citizens obtained value for money.

Submission by the Accounting Officer

This project was undertaken when the Ministry had not been split. Due to the re-organization and splitting of the Departments, the documents could have been inadvertently misplaced and this office has been looking for them. In parallel to our continuing efforts to trace these documents, the Sate Department has written to the State Department of Public Works being the State Department mandated with monitoring of all projects relating to Partitioning and refurbishment of Government buildings.

<u>This matter was considered by the committee in the report of 2016/17</u>

897.3 Tender for Renovation and Refurbishment Works on the Ministry's Stand-Nairobi Show Ground.

As previously reported, the Ministry through restricted tendering awarded the tender to renovate and refurbish its stand at the Nairobi show ground to the lowest bidder at a cost of Kshs.5,472,730. The tender was however awarded contrary to Section 29(3) of the Public Procurement and Disposal Act 2005 on use of restricted tendering which requires the entity to obtain the written approval of its tender committee and record in writing the reasons for using the alternative procurement procedure.

Further, Section 73(2) of the Public procurement and Disposal Act 2005 provide that a procurement entity may use restricted tendering if the following conditions are satisfied: -

Competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors; the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured and that there is only a few known suppliers of the goods, works or services as may be prescribed in the regulations.

In addition, examination of the bill of quantities indicates that the following items were included in the bill of quantities but no supporting documents verification; were provided for audit:

	Kshs
Project management stationery and expenses	250,000
Allow for contractor's profits and overheads 10%	25,000
Insurance for employees'	50,000
Allow for electrical works	500,000
Allow for drainage and Mechanical works	800,000
Allow for landscaping	500,000
Allow for contingencies	300,000
TOTAL	2,425,000

Although the contract was to be for a duration of six (6) weeks, no minutes were availed for audit to show the date when the contractor took possession of the site, the commencement and completion dates and whether site inspections were being carried.
In the circumstances, it has not been possible to ascertain if the work was completed within the contract period and the validity of expenditure totaling Kshs.5,472,730 for the year ended 30 June 2016 could not be confirmed.

Submission by the Accounting Officer
This project was undertaken when the Ministry had not been split. Due to to the re-organization and splitting of the Departments, the documents could have been inadvertently misplaced and this office has been looking for them. In parallel to our continuing efforts to trace these documents, the State Department has written to the State Department of Public Works being the State Department mandated with monitoring of all projects relating to Partitioning and refurbishment of Government buildings.

Committee Observations and Findings
This matter was considered by the committee Committee in the report of 2016/2017.

897.4 Tender for Tilling Works to the Department of Information at Uchumi House

The Committee observed that the issue was that the Ministry was in breach of law for tender for Tiling works to the Department of Information at Uchumi House and it is doubtful if stakeholders got value for their resources amounting to Kshs 4,850,204.

This matter was considered by the Committee in the report of 2015/2016/207.

897.5 Legal Fees

The Committee observed that the issue was that the propriety of expenditure of Kshs 25,000,000 paid as legal fee could not be ascertained.

<u>This matter was considered by the Committee in the report of 2016/2017.</u>

897.6 Transfers to Other Government Units

897.6.1 Transfer of Grants to Kenya Yearbook Editorial Board

The Committee observed that the issue was that no satisfactory reasons were given for the transfer of an amount of Kshs as Grants to Kenya Yearbook Editorial Board 34,800,000.

<u>This matter was considered by the Committee in the report of 2016/2017.</u>

897.6.2 Unclear Transfer of Grants to Ministry Departments

The Committee observed that the issue was that circumstances under which Kshs 110,000,000 was transferred as Grants to internal Ministry Departments had not been explained.

<u>This matter was considered by the Committee in the report of 2016/2017.</u>

897.7 Acquisition of Assets

897.7.1 Un-authorized expenditure on purchase of Motor Vehicles

The Committee observed that the issue was that the propriety of expenditure totaling Kshs 13,135,548 in the year 2016 and current year's expenditure of Kshs 13,825,000 on purchase of motor vehicles has not been ascertained.

<u>This matter was considered by the Committee in the report of 2016/2017.</u>

897.7.2 Agency disbursement Fees to Huawei Technologies Ltd

The Committee observed that the issue was that it was not possible to confirm the propriety of expenditure totaling Kshs 34,934,416 in respect to Agency and disbursement fees to Huawei Technologies.

<u>This matter was considered by the Committee in the report of 2016/2017.</u>

897.8 Kenya Institute of Mass Communications (KIMC)

897.8.1 Construction of Men's Hostel at KIMC

The Committee observed that the issue was that no explanation provided as to why the contractor failed to provide performance bond as required and it is doubtful public resources totaling Kshs. 4,511,300 may not have gone to waste.

This matter was considered by the Committee in the report of 2016/2017.

897.8.2 Failure to deduct withholding tax on payments to contractor

The Committee observed that the issue was that no satisfactory explanation given for the Ministry failure to deduct and remit to Kenya Revenue Authority withholding tax totaling Kshs 5,665,758

This matter was considered by the Committee in the report of 2014/2015.

2376) The Committee observed that Paragraph 898 to 899 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory

DONOR FUNDED PROJECTS

KENYA BROADCASTING CORPORATION DIGITAL TERRESTRIAL TELEVISION (DVB-T2 PLATFORM) COVERAGE ROLL OUT PROJECT

Basis for Disclaimer of Opinion

900. Non Existence of Accounting Records

2377) Digital Terrestrial Television (DVB-T2 Platform) Coverage Roll Out Project does not maintain accounting records. There were no general ledgers, trial balance, subsidiary ledgers, no cash books and bank accounts and as a result the basis for the preparation of financial statements could not be determined or supported.

2378) Under the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2379) The Accounting Officer submitted that the Digital Terrestrial Television Roll-Out project accounts were incorporated in the KBC accounts since the project agreement was silent on the maintenance of separate books of accounts for the project.

2380) However, as a result of prior year audit observations, the management decided to separate the project expenditures based on the narrations in the payment vouchers. Thus, able to come up with the project financial statements.

Committee Observations and Findings

2381) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the explanation given by the Accounting Officer with regard to the non-existence of accounting records was inadequate; and
5) The matter therefore remained unresolved.

Committee Recommendations

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **An Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015**
4) **The Auditor-General should, within three months upon tabling and adoption of this report, undertake a forensic audit on the Kenya Broadcasting Corporation Digital Terrestrial Television (Dvb-T2 Platform) Coverage Roll Out Project.**

901. Late Submission of Financial Statements

2382) The financial statements for Kenya Broadcasting Corporation-Digital Terrestrial Television Coverage Roll-Out Project was to be submitted to the Office of the Auditor-General on or before 30th September 2018 as required by the PFM Act, 2012. However, the financial statements were received on 5 October 2018. No explanation was provided for the late submission of the financial statements.

Submission by the Accounting Officer

2383) The Accounting Officer submitted that during the period under review, there was the presidential directive for the Head of Accounting Units to step aside as a result of which the staff remaining did not have the sufficient capacity to prepare and present the financial statements within the statutory period.

Committee Observations and Findings

2384) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) In addition, the explanation given by the Accounting Officer with regard to the non-existence of accounting records was inadequate; and
4) The matter therefore remained unresolved.

Committee Recommendations

2385) The Committee recommended that:
1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

902. Presentation and Disclosure of financial Statements

2386) The financial statements had the following anomalies:

i. The names of the officers who signed the financial statements have not been disclosed as required by the approved reporting framework and IPSAS 1.
ii. The date of approval of the financial statements has not been indicated.
iii. The cash and cash equivalents at the end of the year as per the statement of cash flow amounting to negative KSh.14,473,372 does not agree with cash and cash equivalents balance of negative KSh.48,489,592 as per the statement of assets and liabilities as at 30 June 2018.
iv. The financial statements do not contain the statement of comparison of budget verses actual amounts as required by IPSAS 24.
v. The receipts as reflected on the statement of receipts and payments of KSh.48,489,592 does not agree with the nil balance as disclosed under note 1.1 of the financial statements.
vi. The financial statements do not have the statement of progress on follow up actions on previous years' auditor's recommendations.

2387) In view of the foregoing, the presentation and disclosure of the financial statements do not conform to IPSAS 1 and the reporting template issued by the Public Sector Accounting Standards Board and the National Treasury.

Submission by the Accounting Officer

2388) The Accounting Officer submitted as follows:

i. This was an oversight which was noted later after the financial statements had been certified. However, this has been addressed in the re-stated financial statements.
ii. This was an oversight which was noted later after the financial statements had been certified. However, this has been addressed in the re-stated financial statements.
iii. The error was noted and has been corrected in the re-stated financial statements.
iv. The error was noted and has been corrected in the re-stated financial statements.
v. The error was noted and has now been corrected in the re-stated financial statements.
vi. The error was noted and has now been corrected in the re-stated financial statements.

Committee Observations and Findings

2389) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The Accounting Officer failed to ensure that the financial statements of the project are prepared in line with prescribed by the International Public Sector Accounting Standards (IPSAS) and published by the Accounting Standards Board pursuant to Section 81 (3) of the PFM Act, 2012;
4) However, the explanation given by the Accounting Officer with regard to the presentation and disclosure of financial statements was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

2390) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officers must at all times provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

903. Unsupported Acquisition of Non-Financial Assets

2391) The statement of receipts and payments and note 1.5 of the financial statements reflect an amount of KSh.38.039,961 in respect of acquisition of non-financial assets. The figure includes an amount of KSh.660,300 in respect of imprest issued to staff during the year for project related exercises. No explanation was provided as to why imprest was classified under acquisition of non-financial assets.

Submission by the Accounting Officer

2392) The Accounting Officer submitted that the project involved a lot of travelling by technical staff and construction technical staff to the ten transmission sites to assess and supervise primary works infrastructure constructions as well as installation of technical equipment. Further to that, there was a ministerial monitoring & implementation committee of the APD project that was also travelling to the ten sites utilizing the funds that were given to KBC for the project.

2393) The amount of KSh.660,300= relating to imprests issued to staff was corrected, transferred and captured under travelling & accommodation in the re-stated financial statements.

Committee Observations and Findings

2394) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) The Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015 during the audit;
3) The Accounting Officer corrected and restated financial statements and the movements in the respective ledger accounts and journal entries at the time of auditing the financial statements for 2019/2020. This was yet to be reviewed and verified by the Auditor General; and
4) The matter therefore remained unresolved.

Committee Recommendations

2395) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **An Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

904. Unsupported and Misclassified Domestic Travel and Subsistence Expenditure

2396) The statement of receipts and payments and note 1.3 to the financial statements reflects purchase of services amounting to KSh.10,449,631 all of which relate to domestic travel and subsistence. The amount however includes payments totaling KSh.3,190,961 paid to contractors for construction of perimeter wall and access roads and a further KSh.120,000 payment for cargo transportation and payments amounting KSh.8,052,950 which were not supported.

Submission by the Accounting Officer

2397) The Accounting Officer submitted that as explained under question 4 above; the project involved a lot of travelling by technical staff and construction technical staff to the ten transmission sites to assess and supervise primary works infrastructure constructions as well as installation of technical equipment. Further to that, there was a ministerial monitoring & implementation committee of the APD project that was also travelling to the ten sites utilizing the funds that were given to KBC for the project. On top of the foregoing, the KBC engineers travelled abroad to Spain to undertake factory commissioning of the digital television transmitters and the expenditure was captured under travelling & accommodation.

2398) The amount of KSh.3,190,961 paid to contractors for construction of perimeter wall and access roads and a further KSh.120,000= payment for cargo has all been removed from the accounting classification of travelling & accommodation and transferred to payments to creditors in the re-stated financial statements. The documents supporting payments amounting to KSh.8,052,950 are available for audit verification.

Committee Observations and Findings

2399) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The Accounting Officer corrected and restated financial statements and the movements in the respective ledger accounts and journal entries at the time of auditing the financial statements for 2019/2020. This was yet to be reviewed and verified by the Auditor General; and
4) The matter therefore remained unresolved.

Committee Recommendations

2400) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015**

905. Unrecorded Project Expenditure

2401) Payment vouchers amounting to KSh.8,713,668 in the project file and whose documentation clearly indicate they were for project related activities were not captured in the financial statements. Further, payments in respect of security services at four (4) APD transmitting stations amounting to KSh.256,130.25 per station thus totaling KSh.1,024,52 were not captured in the schedule for payments and the financial statements for the year ended 30 June 2018.

Submission by the Accounting Officer

2402) The Accounting Officer submitted that the payments amounting to KSh.8,713,668 relating to the project were inadvertently omitted but have now been captured in the re-stated financial statements. The same applies to payments for security services guarding four APD transmitting sites amounting to KSh.1,024,521.

Committee Observations and Findings

2403) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The Accounting Officer corrected and restated financial statements and the movements in the respective ledger accounts and journal entries at the time of auditing the financial statements for 2019/2020. This was yet to be reviewed and verified by the Auditor General; and
4) The matter therefore remained unresolved.

Committee Recommendations

2404) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

906. Domestic Funds Receipts

2405) The statement of receipts and payments reflects an amount of KSh.48,489,592 as domestic funds. However, the financing agreement indicated that the project was scheduled to end on 31 March 2017 with an approved budget of euros 822,164 an equivalent amount of

KSh.89,615,876 which had been received and utilized as at 30 June 2017. There was no evidence of project extension to cover the financial year ending 30 June 2018. No documentation was made available to support the receipt amounting to KSh.48,489,592 counterpart funds. Further, no approved budget or approved annual work plans were provided in support of activities undertaken using the receipts of KSh.48,489,592.

Submission by the Accounting Officer

2406) The Accounting Officer submitted that the APD digital terrestrial television transmission roll-out project was given an extension of one year up to 30th June 2018 and an extension agreement duly signed by the parties. This agreement is available for audit verification.

Committee Observations and Findings

2407) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The Accounting Officer corrected and restated financial statements and the movements in the respective ledger accounts and journal entries at the time of auditing the financial statements for 2019/2020. This was yet to be reviewed and verified by the Auditor General; and
4) The matter therefore remained unresolved.

Committee Recommendations

2408) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015**

907. Construction of Perimeter Fence in Kilifi County

2409) The project constructed a perimeter fence at Chonyi Galanema/25 in Kilifi County at a contract sum of KSh.4,961,980 in November 2017. During the year under review, payments totaling KSh.1,812,000 were paid in respect of the contract. However, the payments had the following anomalies:

i. Payment for KSh.1,212,000 was not included in the financial statements as a payment for acquisition of non-financial asset and the mandatory retention of 10% was not deducted from the payment.
ii. A further payment of KSh.600,000 had no retention of 10% deducted as required by the law.
iii. The works inspection committee meeting that authorized the payment of KSh.1,212,000 had three persons present two of them being from the contractor's side and the other one being the estates officer from Kenya Broadcasting Corporation. The composition of the committee was therefore inappropriate and even approved a retention level to be 5% instead of the statutory 10% as per law.
iv. The payment of KSh.600,000 did not have site inspection report even though the certificate was signed by the estates officer for Kenya Broadcasting Corporation.

2410) Consequently, the accuracy, completeness and validity of the expenditure could not be confirmed.

Submission by the Accounting Officer

2411) The Accounting Officer submitted that the payments of KSh.1,212,000 were included in the financial statements as payments for acquisition of non-financial assets under the classification of acquisition of land and primary infrastructure.
i. The mandatory 10% retention was deducted from the final certificate and invoice of the remaining KSh.3,149,980. This is available for audit verification.
ii. The mandatory 10% retention was deducted from the final certificate and invoice of the remaining KSh.3,149,980. This is available for audit verification.
iii. The KBC representatives in the works inspection committee were duly appointed. As stated above, the stipulated 10% retention was deducted from the final certificate and invoice of KSh.3,149,980. This is available for audit verification

Committee Observations and Findings

2412) The Committee observed and found that:
1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The explanation given by the Accounting Officer and documents availed with regard to the accuracy, completeness and validity of the expenditure on the construction of Perimeter Fence in Kilifi County have not been reviewed and verified by the Auditor General; and
4) The matter therefore remained unresolved.

Committee Recommendations

2413) The Committee recommended that:
1) **Accounting Officers must at all times ensure that they avail supporting**

documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officers must at all times ensure that theyy provideaccurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

908. Construction of Access Roads

2414) The statement of receipts and payments includes payments totaling KSh.10,449,631 in respect of domestic travel and subsistence which include payments of KSh.3,190,961 in respect of construction of two site access roads under two contracts. The contract sum for the two contracts was KSh.3,647,836. However, the payments were made without deducting the 10% of the certified amounts as certified by the supervising engineers. In addition, although the amount paid indicate that 6% withholding VAT had been deducted, no evidence was produced to show that the withheld VAT amounting to KSh.165,053 had been remitted to the relevant authority.

2415) Consequently, the financial statements do not reflect the complete expenditure on construction of access roads and the withheld VAT amount has not been remitted to Kenya Revenue Authority.

Submission by the Accounting Officer

2416) The Accounting Officer submitted that the contract sum for the two site access roads was KSh.3,647,836 while KSh.3,190,961 had been paid out as at 30th June 2018 leaving an outstanding balance of KSh.456,875. The 10% retention fee (KSh.364,783.60) was deducted subsequently from the outstanding balance of KSh.456,875. The Payment Vouchers are available for audit verification. Regarding the 6% VAT withheld and not remitted to KRA as at the time of audit, KBC has entered into a payment plan with KRA on how to settle the VAT arrears.

Committee Observations and Findings

2417) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including KRA certificates for audit verification in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The explanation given by the Accounting Officer and documents availed with regard to the accuracy, completeness and validity of the expenditure on the construction of access roads have not been reviewed and verified by the Auditor General; and
4) The matter therefore remained unresolved.

Committee Recommendations

2418) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

909. Acquisition of Land

2419) During the year under review, the corporation acquired land as detailed in the table below:-

Date paid	**Payment voucher number**	**Payee**	**Description**	**Amount paid KSh.**
24/10/2017	599	Kinyenze Ngala	Payment for Kitui Digital TV Transmission Site Land Sale Agreement	600,000
13/10/17	563	John Muye Gambo	Payment of land at Kilifi Digital TV Transmission Site Land Sale Agreement	500,000
Total				**1,100,000**

2420) The following anomalies were noted:

i. These was not captured in the ledger or properly categorized in the financial statement.
ii. The fixed assets register was not availed.
iii. Since there was no cash book it was not possible to determine the actual value/price paid for these parcels of land acquired.
iv. The title deeds were also not availed to confirm the actual size of the parcels and ownership status.

v. The procurement process used in acquiring the parcels was not availed to confirm adherence to the Public Procurement and Assets Disposal Act, 2015 and Regulations.

Submission by the Accounting Officer

2421) The Accounting Officer submitted as follows:

i. The parcels have been captured in the ledger and properly categorized in the financial statements.
ii. The updated fixed assets register is available for audit verification
iii. The actual price for Kitui parcel was KSh.1,200,000= payable in two instalments of KSh.600,000= each while its size is 0.0994 Hectares.
    a. The actual price for Kilifi parcel was KSh.1,500,000= payable in two instalments of KSh.500,000= and KSh.1000,000= while its size is 0.2023 Hectares.
iv. Officers from the County Governments of Kitui and Kilifi carried out the valuation of the parcels of land.

Committee Observations and Findings

2422) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including KRA certificates for audit verification in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The Accounting Officer failed to produce title deeds, or any evidence of procurement process used to purchase the land as required by law. There was no complete fixed asset register maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

2423) The Committee Recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **An Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

910. Voidable Storage Expenditure

2424) The acquisition of non-financial assets payments totaling KSh.38,039,961 includes amounts paid in respect of storage facilities totaling KSh.29,427,254 for storage of unidentified goods. No justification was provided for these payments all of which had no supporting documentation and were wrongly classified. As a result, the storage expenditure is voidable and need to be recovered.

Submission by the Accounting Officer

2425) The Accounting Officer submitted that the project equipment comprised of digital television transmitters and other accessories for ten transmitting sites. The equipment was transported by ship from Spain to Mombasa port in fifty 20 feet containers. The cited KSh.29,427,254 was not the cost of storage but rather it comprised of the cost of MSS Levy (shipping line levy), shipping line charges for the fifty 20 feet containers from Spain to Mombasa port and clearing & forwarding charges for the entire consignment. The payment voucher has already been availed to the external auditors for verification.

Committee Observations and Findings

2426) The Committee observed and found that:

1) The Accounting Officer failed to submit the financial statements to the Auditor-General within time in contravention of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents for expenditure of KSh.29,427,254 in respect to storage facilities for audit verification in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
3) The matter therefore remained unresolved.

Committee Recommendations

2427) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **An Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015**

911. Unresolved Prior Year Issues

2428) <u>The issues were discussed and recommendations made by the Committee in the report of 2016/2017.</u>

2429) <u>The Committee observed that Paragraph 912 to 913 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

28.0. STATE DEPARTMENT FOR SPORTS DEVELOPMENT

FINANCIAL STATEMENTS FOR VOTE 1132

Mr. Joe Okudo, the Principal Secretary and Accounting Officer for the State Department of Sports and Development (Vote 1132) appeared before the Committee on 8th June 2020 to adduce evidence on the Audited Financial Statements for the the State Department of Sports and Development (Vote 1132) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexes to this report). The following officials accompanied him:

1. Ms. Florence Amoit - Secretary Administration
2. Mr. John Nyabwari - Chief Finance Officer
3. Mr. Francis Odera - Head of Accounting Unit
4. Mr. Peter K. Mbugua - Assistant Secretary
5. Mr. James Odongo - Chief Accountant
6. Mr. Paul Ikuua - Finance Officer
7. Mr. Felix Omondi - Personal Assistant to the PS

Basis for Qualified Opinion

914. Unsupported Expenditure on Supply, Delivery and Installation of Security, Access Control, Communications, Audiovisual and Pitch Lighting Systems in Various Stadiums

2430) On 14 September 2017, the State Department of Sports Development (SDSD) awarded a contract to a firm at contract sum of USD 15,892,980 (Ksh.1, 609,037,145). The contract was for the design, supply, testing, commissioning and supervision of security, access control, communications, audiovisual and pitch lighting systems.The works were to be completed within a period of four (4) months and involved remodeling of five (5) No. Stadiums which included Jomo Kenyatta Stadium in Machakos, Moi Kinoru Stadium in Meru, Kipchoge Keino Stadium in Eldoret, Nyayo Stadium in Nairobi, Kasarani Stadium in Nairobi and ten (10) No. training pitches that were earmarked for use during the CHAN 2018 Championships.

2431) A review of the State Department's payment records for the year ended 30 June 2018 disclosed that the firm was paid a 20percent advance payment of USD 3,178,596 (Ksh.330,537,997) vide P.V. No.0618 dated 30 January 2018. The advance payment was based on a security guarantee issued by a Bank in Madrid -Spain dated 30 October 2017. It was however noted that the security guarantee was valid up to 28 February 2018 and had therefore expired at the time of the audit in November 2018 and no evidence was presented to confirm its revalidation.

2432) In view of the foregoing, there is a risk of not recovering advanced amount of Ksh.330, 537,997 as the security guarantee had expired and had not been replaced. It is also not clear when and if the project will be completed considering that the National Treasury withdrew the funding.

Submission by the Accounting Officer

2433) The Accounting Officer admitted that an advance payment amounting to 20percent of the contract price of Ksh.330,537,997 was paid to M/S Auditel upon presenting a bank guarantee. Subsequently, the contractor embarked on the works as per the contract and to date Engineering works which are at 40percent of the contract are complete as per invoice of USD $ 5,899,474.42 which was attached for perusal by the Committee. The completed engineering designs for Kasarani, Nyayo, Kipchoge Keino and Kinoru together with the associated training pitches are available for audit verification. Currently the State Department is assessing the contract in consultation with Attorney General to inform the next course of action.

Other Submissions

<u>Submission from Amb. Mr. Peter Kiberia</u>

Amb. Kirimi Peter Kaberia, the Former Principal Secretary and Accounting Officer for the State Department for Sports Development appeared before the Committee accompanied by Mr. Peter P. Ngetis, Senior Assistant Secretary State Department for Mining:

He submitted as follows:

1) He signed the two Contracts:
   i. M/S Auditel Kenya Ltd for Supply, Delivery and Installation of Security, Access Control, Communications, Audiovisual and Pitch Lighting Systems in Various Stadiums; and
   ii. M/S Gregori International for soft services, grass services, pitch construction, surface laying and irrigation systems and pitch maintenance.
2) The works were to cover five (5) number of Stadium which included: Jomo Kenyatta Stadium in Machakos, Moi Kinoru Stadium in Meru, Kipchoge Keino Stadium in Eldoret, Nyayo Stadium in Nairobi, Kasarani Stadium in Nairobi and ten (10) number of training pitches earmarked for use during the Championship of African Nations football tournament – CHAN 2018.
3) The two International Companies were both proposed and seconded by the FIFA/CHAN through the Football Kenya Federation - FKF which is their local affiliate body. They had to be registered in Kenya in line legal requirements.
4) Most of the discussions and responsibilities were carried out by the Local Organizing Committee – LOC/CHAN 2018 chaired by the President Mr. Nick Mwendwa.
5) That an advance payment of Ksh.330,537,997.00 which was 20percent of the contract sum was paid to Auditel Kenya Ltd upon presenting a bank guarantee.
6) That the tournament was to be held in January and February 2018 and thus the reason for the bank guarantee expiring in February 2018.
7) That as a Principal Secretary for Sports Development, he put the interest of Kenya first and tried all means to have the tournament hosted but he did not succeed.
8) That due to the unpredictable political climate at the time CHAN decided to move the tournament to Morocco.

9) That after losing the rights to host the tournament, the National Treasury withdrew back the money allocated for the two (2) contracts and the Contractors also withdrew from the sites leaving works incomplete.

10) That at the time Gregori International had completed the works at Kasarani and Nyayo Stadia in Nairobi.

<u>Further submission from Amb. Peter Kiberia and PS Joe Okudo</u>

Amb. Kirimi Peter Kaberia the former Principal Secretary and the former Accounting Officer State Department for sports appeared before the Committee accompanied by the following officers.

1. Mr. Joe Okudo - Principal Secretary
2. Mr. Peter Ngaitu - Former Accountant
3. Ms. Margret M. Byma - Chief Finance Officer
4. Mr. Baptista Mutura - Office of the Principal Secretary
5. Ms. Rispa Mwikonyo - DCSC
6. Mr. Felix Ochido - Office of the Principal Secretary
7. Mr. James Odongo - HOP, Planning
8. Ms. Diana Kanari - Assistant Accountant General

He submitted as follows:

914: Unsupported Expenditure on Supply, Delivery and Installation of Security, Access Control, Communications, Audiovisual and Pitch Lighting Systems in Various Stadiums.

1.0 Introduction

2434) Kenya was granted the rights to host the fifth edition of the African Nations Championship, CHAN 2018 on 23rd February 2014. The stadia upgrading projects initiated in 2016/17 Financial Year were implemented in readiness for hosting of CHAN 2018. All contracts under CHAN were entered into, based on specifications recommended by CAF/FIFA inspection teams which visited the country in February and June 2017. It was a requirement that for the country to retain the hosting status, all the identified stadia/training pitches were to be refurbished to the FIFA/CAF standards.

2435) As a result, two firms were recommended by CAF, namely: Auditel Engineering and Services and Gregori International. The stadia identified for upgrading to international standards were; Kasarani, Nyayo, Kinoru, Kipchoge Keino and Jomo Kenyatta Stadiums. In addition, they were to renovate ten pitches i.e. Postbank Sports Club, Nairobi School, Utalii Sports Club, Kenya School of Monetary Studies, Meru Polytechnic, Meru Teachers Training College, Moi University School of Law and Eldoret Polytechnic.

2436) In quest of meeting the hosting thresholds that were to be determined in the Accra, Ghana meeting of 23rd September 2017, the LOC and other sub-committees had to move with speed to demonstrate the capability of hosting. In light of that, the LOC was bestowed the responsibility of implementing the infrastructure project and soft services.

2.0 Chronology of events in hosting CHAN 2018 Kenya

NB: Information received from the office bearers then.

Date	Event
8th February 2014	Kenya bids for hosting rights for CHAN 2018
23rd February 2014	Kenya was granted hosting rights to host CHAN 2018
27th April 2016	The very 1st preparatory inspection visit was carried out on the following stadia i) Kasarani Stadium ii) Nyayo Stadium iii) Moi Stadium Kisumu iv) Mombasa Stadium v) Kinoru Meru Stadium vi) Machakos Kenyatta Stadium vii) Eldoret Kipchoge Stadium From that inspection only Kasarani Stadium met the minimum requirement to host CHAN.
August 2016	2nd preparatory inspection visit was carried out with the then CAF president Issa Hayatou and his delegation meeting with the government officials.
August 2016	Local Organizing Committee was formed
22nd- 28th February 2017	1st technical inspection by CAF delegation of inspectors
11th-17th June 2017	2nd technical inspection by CAF delegation of inspectors
23rd June 2017	The local organizing committee was gazetted in the Kenya gazette
28th July 2017	CHAN infrastructure contracts were awarded to the contractors
24th August 2017	The contracts were signed by former official bearer
5th-14th September 2017	3rd technical inspection by CAF delegation of inspectors
15th September 2017	Cabinet approved Ksh.s 4.21 billion CHAN budget
Soft Services	
4th April 2017	CAF recommendation on Auditel Ltd (integrated services, access control of CCTV and flood lights to satisfy security needs as per CAF's requirement) and Gregori Ltd for planting grass.
2nd August 2017	Sought approval for direct procurement of the two firms from PPRA.
14th September 2017	Ministry signed the two contracts.
CAF Decision on CHAN 2018 Kenya Hosting	
22nd September 2017	FKF and MOSCA travelled to CAF EXCO to seek retention of hosting rights
23rd September 2017	CAF-EXCO decided against Kenya's hosting of CHAN on account of political situation and readiness of stadia- at Accra, Ghana.

Responses to issues raised in the Audit Query

3.1 Whether the contracts entered into were lawful and complied with the PFM Act, 2012.

2437) The State Department has recently written to the AG seeking for his opinion on the contracts and obligations of the ministry. The Attorney General has responded and the State Department has requested for re-assessment of works done.

3.2 Whether the Accounting Officer secured adequate resources in line with the financing requirements set out in the contracts.

2438) According to the information given by the office bearer, the Accounting Officer secured adequate resources vide a letter and a Cabinet Memorandum ref number MSCA 13/69 Vol. I (45) to the National Treasury dated 29th March 2017 seeking for funds to host CHAN. The National Treasury committed to provide funds totaling to Ksh.s 4.2 billion vide a letter DV/ES/1132/16/01/A/4 dated 25th July 2017. Subsequently, the 2.3 billion for infrastructure development was then transferred to the State Department's Development budget for FY 2017/2018. Copies of these were produced for perusal by the committee**.**

3.3 Justification for the delay in completion of the contract works beyond the contract period of four (4) months.

2439) According to the information given by the office bearer, Kenya was stripped off the right to host the CHAN championship following a CAF executive committee meeting in Accra, Ghana. This was due to accumulated delays from reports of the various inspection missions conducted in the country as they found that only one stadium, Kasarani Complex out of the five venues was ready to stage the event. The CAF officials also expressed concerns over the political climate in Kenya at the time due to the then repeated ongoing Presidential election campaigns for December 2017.

3.4 Why did the LOC insist that CHAN 2018 Kenya collaborate and use the services of Gregori International SA as a preferred supplier/contractor contrary to the provision of Article 227 of the Constitution? What was the membership of the Local Organizing Committee-LOC-CHAN 2018?

2440) According to the information received from the office bearer then, the LOC insisted on using Gregori International based on the recommendation of CAF that endorsed the contractor as worldwide accredited specialists and instructed the CHAN LOC to collaborate and use their services as the preferred supplier/ contractor to be able to refurbish the stadiums to international standards, vide the letter dated 20th March 2017. In addition, given the strict timelines, it was impractical to engage in open tendering and achieve a ready playing pitch with mature natural turf. In regards to the membership of the CHAN LOC, a gazette notice dated 23rd June 2017 was availed for the perusal by the Committee.

3.5 What informed the advance guarantee payment of Euro 1,290,128 (Ksh.155,499,128) paid to Gregori International SA vide advance guarantee payment no. 03102-1255234TLS dated 17th October, 2017 via Societe Generale SA France?

2441) According to the information received from the office bearer then, the advance guarantee payment is informed by the Contract document between the CHAN 2018 LOC and Gregori International in article 5.1.1.7 which states that "The contractor will provide advance payment guarantee of twenty percent (20percent) of the contract price from a reputable Kenyan bank. It will be valid for the duration of the contract period and shall be proportionally reduced based on the invoices submitted by the contractor as provided for in the form of guarantee attached as exhibit D". Article 5 of the contract was availed for perusal by the Committee. The advance payment guarantee no: 03102-1255234TLS was availed for perusal by the Committee.

3.6 Who should take responsibility for the loss of public funds to the tune of Ksh.155,499,128 that Gregori International SA was paid?

2442) The state Department is in the process of re-assessing the works done and will be able to advice once the re-assessment report is finalized.

3.7 Was there a termination of the two contracts to Auditel Kenya and Gregori International?

2443) The contract was terminated because the time lapsed and as mentioned earlier, the State Department is liaising with Public works for re-assessment of the works done.

3.8 Was an assessment done by the International team on the scope of works to be done before engaging the two international companies?

2444) CAF had carried out a number of inspections and assessments before involving the international firms. Inspection reports from CAF was availed for perusal by the Committee.

3.9 The role of the public works department and the National Construction Authority in the two contracts.

2445) There appears to have been appointments of public works officials. However, the state Department notes that they were not involved in the implementation of the contract.

3.10 Whether the two contractors provided performance bonds

2446) According to the information received from the office bearer then and the records available, Auditel Kenya and Gregori International provided performance guarantee.

3.11 Documentation

2447) According to the office bearer then, we have managed to secure Contract documents for the two contracts. We are in the process of tracing request letters to the firm and letters of acceptance for the offer.

4.0 Conclusion

2448) The State department is currently assessing the works done vis a vis the payment made and upon completion of the exercise we will be in a position to evaluate and provide necessary certificates with a view of settling the outstanding bill.

Committee Observation and Findings

2449) The Committee made the following observations and findings on Auditel Kenya Ltd

1) It was unable to find and examine the contract between M/S Auditel Engineering and Services and State Department for Spors Development;
2) An advance payment purportedly amounting to 20 percent of the contract price (Ksh.330,537,997) was paid to M/S Auditel Engineering and Services;
3) Upon receiving the sum of Ksh.330,537,997, M/S Auditel Engineering and Services literaly disappeared into thin air;
4) The Committee's concerted efforts to have M/S Auditel Engineering and Services appear before it bore no fruits. The Committee was totally unable to locate the Company and its promoters, both locally and internationally.

Committee Recommendations

2450) The Committee made the following recommendations on Auditel Engineering Services Kenya Ltd:

The EACC should, within three (3) months of tabling and adoption of this report by the House, initiate a comprehensive investigation into M/S Auditel Engineering and Services and all its Directors over their engagement with the State Department for Sports Development on the questionable contract. Upon establishing any criminal culpability, the EACC should make appropriate recommendations to the DPP without undue delay.

Submission from Federation of Kenya Football - FKF

2451) Mr. Nick Mwendwa the President of Federation of Kenya Football appeared before the Committee accompanied by Mr. Barry Otieno, the CEO Federation of Kenya Football:

and submitted as follows

1. Sometimes in 2016, Kenya won the rights to host the Championship of African Football 2018;
2. On winning the rights, it was a requirement that Kenya gets ready five (5) Stadia and five (5) training grounds for the event to smoothly run;

3. At the time, it was only Kasarani and Nyayo Stadia as the only two international Stadia which still required improvements on the drainage;
4. Kenya as a country did not make any move to repair the Stadia until sometime around 2017;
5. During one of their routine assessments of the preparations for the event in 2017, the Confederation of African Football – CAF was not impressed with the Kenya's level of preparation for the event. Kenya was to fast track the works on the Stadia or lose the rights to host the tournament;
6. In April 2017, the President of the Confederation of African Football – CAF wrote to FKF recommending three International firms i.e. Auditel Technologies Ltd of Spain, Gregori International Ltd of France and Sports Turf Research Institute – STRI of UK as the firms with capacity to renovate Stadia to the required standards within the shortest time possible;
7. CAF went ahead to recommend Gregori International and Auditel Technologies to do the works which involved grass peeling off the pitches and installation of security cameras and other gadgets around the Stadia;
8. Upon receiving the recommendations from CAF, FKF presented the same to the Local Organizing Committee for CHAN 2018 – LOC CHAN 2018 for adoption and onward forwarding the same to the Ministry of Sports and Development for consideration;
9. It was upon the Ministry of Sports to carry proper procurement process for the works to be done within the required timelines. FKF does not involve itself with infrastructural projects;
10. There was no response from the Ministry at all after receiving the letter from CAF and minutes from the LOC;
11. Any communication from FIFA is channeled through CAF and CAF forwards the same to FKF and FKF conveys the same to the Government Department in-charge of Sports;
12. As President of Football Kenya Federation, he was the Chairman of the Local Organizing Committee for CHAN 2018 – LOC CHAN 2018. The Committee was to oversee the local operations and ensure the works are done to the required standards;
13. The ministry was to deal with procurement issues and other financial matters; and
14. In the long run, Kenya was unable to works on the Stadia as required by FIFA and CAF and lost the rights to host the tournament to the Royal Kingdom of Morocco.

Submission by Mr. Xavier Jean Gregori, Gregori International

2452) Mr. Gregori submitted that:-

1) Gregori International was not awarded tender to supply, Delivery and Installation of Security, Access Control, Communications, Audiovisual and Pitch Lighting Systems in Various Stadiums;
2) Gregori International was seconded by Confederation of African Football – CAF to the Football Kenya Federation – FKF due to the urgency, sensitivity and importance of preparation for Championship of African Nations - CHAN 2018. Our website: www.gregori-international.com clearly shows our capacity and concluded projects in Europe and other parts of the world;

3) Gregori International received a letter of expression of interest (**copy was attached**) on 01/06/2017 to cover the renovation of five (5) premium pitches to international standards and ten (10) training pitches in preparation for the CHAN 2018 FAST TRACK PROJECT;
4) Gregori International sent its proposal dated 10th July 2017 (**copy was attached**) with a complete detailed financial offer for the contract of Euro 8,117,869.00 which was including customs and duties provision of 16percent VAT at the time;
5) Gregori International signed a Contract (**copy was attached**) for the design, mobilization, grass removal, irrigation. Levelling, soil preparation and fertilization, and installation of Bermuda/paspalum grass and installation of sports equipment between the Local Organizing Committee – LOC Kenya 2018 c/o Ministry of Sports, Culture and the Arts as the client and Gregori International as the Contractor on the 14th September 2017. The same document indicates the payment terms that have not been honored to this day;
6) After initiating the works as described we sent invoices as required and out of the Euro 6,484,095.00 only a partial payment of Euro 1,8077,878.16 was made with a balance of Euro 4,676,216.84 pending. Our letter dated 13th February 2019 Ref: KEN-GI-LET-20190213-309 (**copy was attached**) has not been responded to until this day and neither has the payment been processed. We even went ahead to maintain the stadiums for a period of one (1) year;
7) It is regrettable though that the sports stadia Eng. Ruga has held all certificates without giving us copies as required for all the works we carried out;
8) In order to manage and get awarded the project we issued a Bankers Guarantee from *Societe Generale* of Euro 1,290,128 (**copy was attached**);
9) With regard to our award if we were the lowest bidder, we are not in a position to indicate if we were the lowest bidder since we did not have access to that kind of information;
10) After several failed attempts to get a response from the Ministry of Sports and Development, Gregori International decided to move this matter to Court in Kenya.

Committee Observations and Findings

2453) The Committee observed and found that:
1) In February 2014, Kenya won the rites to host the Championship of African Nations – CHAN 2018;
2) In preparation for the CHAN 2018 Kenya was to do renovation of five (5) premium pitches to international standards and ten (10) training pitches;
3) Gregori International is a company that deals with field grassing, drainage and levelling. Gregori International was single sourced by the Ministry of Sports, Culture and Arts upon recommendation by CAF;
4) Phase 1 of the project, involving 40 percent of the contract i.e. engineering design stage, was completed and an invoice amounting to USD ($) 5,085,753.81 (Ksh.s.540,259,627.23) was issued on 20th June 2018;
5) The invoice and the engineering designs were availed for audit verification. However, an approved certificate of work from the Project Manager did not support the invoice. Therefore, the Committee could not ascertain the authenticity of the 40 percent of work done;

6) Gregori International did not complete the works as per the contract due to delays in payments by the Ministry of Sports, Culture and the Arts forcing it to abandon works mid-way. The company was paid a partial amount of Euro 1,807,878.16 with a balance of Euro 4,676,216.84 pending;
7) The Ministry had not terminated the contract to date. Further, that the Ministry is still in possession of some equipment belonging to Gregori International;
8) Gregori International has sought legal redress in Court over the dispute with the Ministry;
9) The Attorney General had since advised the Accounting Officer to engage the Contractor with a view to reaching an out-of-court settlement; and
10) The matter, therefore, remained unresolved.

Committee Recommendations

2454) The Committee made the following recommendations on Gregori International Ltd:

1) **Kenya should move to actualize the original intention of preparing the five (5) stadia to attain Fifa certification to host matches like the CHAN or even Africa Cup of Nations. As it is today, the only stadium that is close to attaining the CAF/FIFA and IAAF standards is Kasarani.**
2) **As a standard, the National Treasury should ring fence all money meant for approved projects for international sporting events especially when Kenya is the host. Any hosting rites by Kenya that have not been funded by Treasury 2 years after winning the hosting rights must be surrendered. It is noted on the matter of CHAN 2018, Kenya had the rites from February 2014 and only provided funds to develop the stadia in August/September 2017.**
3) **The Accounting Officer of the State Department for Sports Development should take seriously the advice of the Attorney General to have the dispute with Gregori International settled out of Court;**
4) **The Accounting Officer of the State Department for Sports Development should ensure that any equipment rightfully belonging to Gregori International and currently in the custody of the State Department is immediately released to the firm under mutually agreed terms;**
5) **The Accounting Officers of the State Department for Sports Development and the National Treasury should jointly ensure that any pending contract payments due to Gregori International, against which the requisite completion certificates have been authenticated, are settled under mutually agreed terms;**
6) **In order for the public to derive true value for money, the State Department for Sports Development should consider developing plans to have any pending works completed under appropriate contractual terms taking into account the time-lapse and consequential cost implications.**
7) **The Accounting Officer during the year under review (2017-2018) should be held liable for the breaches, particularly contravention of section 68(2)(e) of the Public Finance Management Act 2012 read together with Regulation 97 of PFM Regulations 2015 and Section 9 (1) (e) of the Public Audit Act 2015.**

915. Irregular Payments to Members of Parliament (MPs)

2455) An amount of Ksh.2,461,872 was on 29th June 2018 transferred by the State Department to the National Sports Fund for the purpose of catering for MPs during the FIFA World Cup Games held in Russia in July 2018. The funds were meant to cater for two MPs expenses during the last two weeks of the games (1st – 17th July 2018). The payments were based on requests from the Clerk of the National Assembly vide letters Ref. No. KNA/DCS/SCT/2018 (023) of 14th June 2018 and Ref. No. NA/WCC/2018/VOL.1/02 of 18th June 2018. The Members of the National Assembly serve under Parliamentary Service Commission and all their expenses should be paid from there. In the circumstances, the State Department should pursue the refund of the Ksh.2,461,872 from the Clerk of the National Assembly.

Submission by the Accounting Officer

2456) The Accounting Officer submitted that it was true that Ksh.2,461,872 was disbursed to the National Sports Fund for the purpose of travel and accommodation expenses for 2 members of the National assembly attached to the Departmental committee of Sports, Culture and Tourism to enable them attend the FIFA World cup games in Russia in July, 2018. The purpose of this visit was to hold talks with different officials from football federations with the view to developing sustainable funding models for federations that are worthy adoption by the State Department.

Committee Observations and Findings

2457) The Committee observed and found that:

1) The documents availed for audit verification in support of the funding from the Department instead of the PSC found satisfactory and the Committee considered the matter resolved.

Committee Recommendation

2458) The Committee recommended that:

1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012; and**
2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

916. Excess – Development Appropriation Vote

2459) A review of the summary statement of development appropriation for the year ended 30 June 2018 revealed that development vote expenditure amounted to Ksh.2,280,773,796 against a budget of Ksh.2,246,899,981 resulting in an excess vote of Ksh.33,873,815. The over-expenditure was mainly attributed to the acquisition of assets where a total of

Ksh.1,812,044,124 was spent against a budget of Ksh.1,748,211,106 resulting in an over-expenditure of Ksh.63,833,018 or about 4percent. Though management has explained that this over-utilization resulted from adjustments in the supplementary budget after expenditure had already been incurred, there was no evidence to show subsequent approval from the National Treasury or parliament as required.

Submission by the Accounting Officer

2460) The Accounting Officer admitted that an excess vote was realized under the development vote totaling to Ksh.33,873,815. This was attributed to a budget cut of Ksh.551,788,894 under stadia infrastructure upgrading projects. This matter was brought to the attention of the National Treasury.

2461) The Accounting Officer submitted that all expenditure was incurred within the ambits of the estimates and any over expenditure realized could be attributed to unforeseen budget cuts through Supplementary budget reviews.

Committee Observations and Findings

2462) The Committee observed and found that:

1) The Accounting Officer incurred expenditure without prior authority from the National Treasury;
2) The Accounting Officer had written to the National Treasury for consideration of supplementary budget. However, the National Treasury had not responded; and
3) The matter therefore remains unresolved.

Committee Recommendation

2463) The Committee recommended that:

The Accounting Officer should regularize the excess expenditure by seeking additional funding from the National Treasury to cater for the excess expenditure.

917. Pending Bills

2464) The financial statements for the year ended 30 June 2018 reflect pending bills totaling Ksh.329,768,724 carried forward to 2018/2019 financial year. Had these bills been cleared and charged to the vote, the statement for receipt and payments for the year ended 30 June 2018 would have reflected a deficit of Ksh.325,318,600 instead of a net surplus of Ksh.4,450,124 now shown. The management states that the accumulation of the pending bills over last three financial years was mostly due to under exchequer issues and has engaged with the National Treasury for enhanced budgetary provision. It was however not clarified why the pending bills did not form the first charge in the subsequent year as required. Consequently, the validity and propriety of the pending bills could not be ascertained.

Submission by the Accounting Officer

2465) The Accounting Officer admitted that the pending bill status as at 30th June 2018 stood at Ksh.329,768,723.70. These bills did not constitute first charge at the beginning of the year due to low budgetary provisions under the relevant expenditure item**.** The analysis indicates that with the first quarter funds, the Department could not be able to settle the bills and meet other operational costs given that most sporting events occur in the same quarter. The Accounting Officer submitted that the pending bills have been accumulating over the financial years mostly due to under exchequer issues and unexpected budget cuts. The Ministry has instituted significant effort through engagement with the National Treasury for enhanced budgetary provisions in order to minimize the level of pending bills. Currently, the pending bills under recurrent vote have substantially been reduced to Ksh.66,513,598, with funding from both National Treasury and Sports, Arts and Social Development Fund.

Committee Observations and Findings

2466) The Committee observed and found that:

1) The State Department's historical pending bills amounted to Ksh.s.86,963,949 as at 30th June 2019 as per the Financial Statements availed for audit on 30th September 2019;
2) The pending bills under Recurrent vote have substantially been reduced to Ksh.66,513,598, with funding from both National Treasury and Sports, Arts and Social Development Fund;
3) The pending bills did not constitute first charge at the beginning of the year due to low budgetary provisions under the relevant expenditure item;
4) In addition, the Accounting Officer has instituted significant efforts through engagement with the National Treasury for enhanced budgetary provisions in order to minimize the level of pending bills; and
5) The matter therefore remained unresolved.

Committee Recommendation

2467) The Committee recommended that:

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

918. Un-budgeted Disbursement and Excess Vote to National Sports Fund

2468) An amount of Ksh.404, 444,538 was transferred by the State Department as special grants to National Sports Fund. However, the National Sports Fund had not budgeted for these funds. Further, the Fund's management was not involved in the procurement process for payments made from this funding. In addition, included in this amount was Ksh.63,390,000 meant for the Commonwealth Games but the National Sports Fund spent a total of Ksh.130,553,340 for this event resulting to unauthorized over expenditure of Ksh.67,163,340. The over expenditure was funded through reallocation of funds meant for World Rally Championships - WRC held in Naivasha without approval of the National Treasury.

2469) In the circumstances, it has not been possible to ascertain if transfer of special grants to National Sports Fund amounting to Ksh.404, 444,538 was lawful and whether the resultant expenditure on Commonwealth Games totaling Ksh.130, 553,340 was a proper charge to public funds together with the resulting excess vote of Ksh.67, 163,340.

Submission by the Accounting Officer

2470) The Accounting Officer admitted that a total of Ksh.404,444,538.00 was transferred to the National Sports Fund to facilitate prompt payments to sports federations and persons using existing electronic funds transfer platform. This was preferred more so in payment of allowances to athletes due to timeliness as compared to IFMIS where each athlete required definition by The National Treasury before effecting payment. Copies of details of sports activities/events funded were provided for perusal by the Committee.

2471) The expenditure relating to commonwealth games held in Gold Coast in the month of April 2018 totaling to Ksh.130,553,340 was a proper charge to public funds given that the financial support to the event was approved under supplementary II budget estimates.

2472) With regard to the excess vote totaling to Ksh.67,163,340 relates to commonwealth games, the Accounting Officer stated as follows:

(i) As at the time of departure of various teams to Commonwealth Games i.e. 22nd March to 1st April 2018, funds relating to allowances of athletes had not been configured to IFMIS platform.

(ii) Given the urgency to pay the athletes, funds totaling to Ksh.67,163,340 were temporarily borrowed from WRC project with a view to refunding when all allowances for Commonwealth are configured in IFMIS platform. The refund process was initiated on 24th May 2018 but was not complete at the close of the financial year due to budget cuts under CHAN (Finance Unit) expenditure item to the tune of Ksh.1,739,000,000 from the initial Ksh.1,912,000,000 resulting to an over expenditure of Ksh.80,752,982. Subsequently, this limited the amount of exchequer that could be accessed.

(iii) The outstanding amount due to WRC project was subsequently reduced in the 2018/19 financial year by settling some of its operational requirements like registration to international bodies and the local motorsport association amounting to Ksh.32,000,000.

2473) The Ministry continues to ensure that funds are available for WRC project activities as and when required.

Committee Observations and Findings

2474) The Committee observed and found that:

1) The response by the Accounting Officer to the question of transfer of Ksh.s.404,444,538 to National Sports Funds was justified by the delays in the IFMIS and the urgency to make timely payments to the athletes;
2) The over expenditure/ borrowing of Ksh.s.67,163,340 funds meant for WRC to finance commonwealth games was explained as having been occasioned by delays of disbursements of funds from National Treasury;
3) The the explanation for the transfer of funds was satisfactory as it was to facilitate the sports men to attend the games;
4) In addition, the documents to support the partial refund of Ksh.s.32,000,000 were availed for audit verification but the balance Ksh.s.35,163,340 was still outstanding; and The matter was therefore unresolved.

Committee Recommendation

2475) The Committee recommended that:

The Accounting Officer should always adhere to lawful and authorized usage of public funds as per section 68 (1) (2) (f) and (i) of Public Finance Management Act 2012.

919. Advance from the Anti-Doping Agency of Kenya

2476) An amount of Ksh.4, 400,000 was in July 2017 advanced to the State Department of Sports Development by the Anti-Doping Agency of Kenya – ADAK for paying athletes who participated in the World Under 18 Championship held in Nairobi from 12th to 16th July 2017. The amount was to be refunded immediately the State Departments books of account for the year 2017/2018 were opened. However, only Ksh.2,000,000 has been refunded leaving a balance of Ksh.2,400,000 outstanding. Consequently, the settlement of the advance of Ksh.2, 400,000 remains doubtful.

Submission by the Accounting Officer

2477) The Accounting Officer admitted that ADAK advanced the state department of sports development an amount of Ksh.4,400,000 to pay athletes who participated in the World Under 18 Championships 2017. This was attributed to the urgency of payment for the allowances hence calling for this short-term measure. The Accounting Officer reported that ADAK has been paid the outstanding balance of Ksh. 2,400,000. Copies of payment vouchers were availed for perusal by the Committee.

Committee Observations and Findings

2478) The Committee observed and found that:

1) The documents were availed for audit verification and that the amount was found to been fully refunded; and
2) The matter was marked as resolved.

920. Unresolved Prior Year Matters

920.1 Supply and Delivery of Petroleum Products in Bulk

Committee Observations and Findings

2479) The Committee observed and found that this matter was considered by the Committee in its report for the FY 2016/2017 and a recommendation made therein.

920.2 Theft of Parking Lights at Kasarani Stadium

2480) As previously reported, one hundred and thirty (130) parking lights installed at the Stadium with an estimated value of Ksh.3,615,950 installed during the IAAF World Under-18 Championships-Nairobi 2017 were stolen. Although the security firm at the stadium acknowledged the theft and requested to replace the security lights, no replacement had been done as at the time of audit in November 2018. The management has however stated that it has withheld retention money until replacement is done. However, no evidence was produced to support the withholding of the retention money.

Submission by the Accounting Officer

2481) The Accounting Officer admitted that Sports Kenya withheld a total of Ksh. 3.9 million due the security firm till the replacement of the lights are made. The lights have since been replaced.

Committee Observations and Findings

2482) The Committee observed and found that:

1) The evidence of replacement of the security lights was availed for audit verification; and
2) The matter was marked as resolved.

920.3 Other Matters arising from the audit 2016/17 Report

2483) The report for 2016/17 was discussed by the Parliament Accounts Committee and the Accounting Officer was requested to avail supporting documents to the Office of the Auditor-General for their verification.

Submission by the Accounting Officer

2484) The Accounting Officer submitted that it was as directed by Parliamentary Accounts Committee; the relevant supporting documents relating to the unresolved matter were submitted for audit verification.

Committee Observations and Findings

2485) The Committee observed and found that:

1) The relevant supporting documents relating to the unresolved matter were submitted for audit verification; and
2) The matter was marked as resolved.

Other Matter

921. Budget and Budgetary Performance

921.1 Receipts

2486) The State Department of Sports Development had budgeted for receipts totaling Ksh.4, 831,669,152 but realized Ksh.4,809,210,037 resulting to a shortfall of Ksh.22,573,115 or 0.5percent.

921.2 Expenditure

2487) The Department had budgeted to spend Ksh.4,831,669,152 but actual expenditure amounted to Ksh.4, 804,759,913 resulting to an under expenditure of Ksh.26,909,238 or 1percent.

2488) The underutilization on other grants and transfers of Ksh.3,101,600 or 15percent was as a result of late submission of requests while the over-expenditure on acquisition of assets of Ksh.61,594,500 or 4percent was as a result of supplementary budget cut after expenditure had already been incurred.

Committee Observations and Findings

2489) The Committee observed and found that:

1) Despite the foregoing, the State Department was continuously instituting and reviewing internal control mechanisms to ensure that the available resources were prudently utilized while adhering to the existing government regulations and procedures.

2490) <u>The Committee observed that Paragraph 922 to 923 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

2491) <u>The Committee observed that paragraphs 924 to 936 on the National Sports Fund were to be considered by the Special Funds Accounts Committee.</u>

29.0. STATE DEPARTMENT FOR CULTURE AND ARTS

FINANCIAL STATEMENTS FOR VOTE 1133

Ms. Jospeta O. Mukobe, the Accounting Officer for the State Department of Culture and Arts (Vote 1133) appeared before the committee on 2nd July 2020 to adduce evidence on the Audited Financial Statements for the State Department of Culture and Arts (Vote 1133) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexes to this report). The following officials accompanied her:

1.	**Mr. Stephen Muthuma**	**-**	**Chief Finance Officer**
2.	**Mr. Nelson Meso**	**-**	**Head of Accounts**

Basis for Qualified Opinion

937. Accuracy of the Cash and Bank Balance

2492) The statement of assets and liabilities reflects a cash and cash equivalents balance of Ksh.18,007,764 as at 30th June 2018.However the following unsatisfactory matters were noted;

937.1 Recurrent Cashbook

2493) The bank reconciliation statement for the recurrent cashbook as at 30thJune, 2018 reflects payments totaling Ksh. 622,633 in respect of stale cheques. No explanation has been given for failure to reverse the stale cheques in the cashbook. Further the statement reflects direct bank debits amounting to Ksh. 4,439,410 which have been outstanding for a long time. The direct debits have not been investigated to establish what they related to. In addition, the Board of Survey Certificate as at 30th June 2018 reflect cash in hand balance for the recurrent cashbook of Ksh.232,978.55 which was omitted from the financial statements.

Submission by the Accounting Officer

2494) The stale cheques have since been reversed and the direct debits, which had been outstanding for a long time, have since been adjusted accordingly in the cashbook. Further, the cashbook balance of Ksh.232, 978.55 that was omitted in the financial statements was reinstated in the amended accounts.

Committee Observations and Findings

2495) The Committee observed and found that:

1) The bank reconciliation statement for the recurrent cashbook as at 30thJune, 2018 reflects payments totaling Ksh. 622,633 in respect of stale cheques; and
2) The stale cheques was reversed and the direct debits that had been outstanding for a long time have since been adjusted accordingly in the cashbook. Further, the cashbook balance of Ksh.232, 978.55 that was omitted in the financial statements was reinstated in the amended accounts.

Committee Recommendations

2496) The Committee recommended that:

1) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.**
2) **Accounting officers must, at all times, ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

937.2 Development Cashbook

2497) The development bank reconciliation statement for June 2018 reflect payments in cashbook not in bank statement of Ksh.1,595,042 that were outstanding for over 6 months but had not been reversed in the cashbook. Included in this figure was Ksh.1,505,042 relating to withholding tax deducted from suppliers that had not been remitted to Kenya Revenue Authority (KRA) as required. No explanation has been given for the failure to remit the withholding tax to the KRA.

Submission by the Accounting Officer

2498) The payments of **Ksh. 1,595,042** in the cashbook not in the bank statement that remained outstanding for over 6 months have since been reversed.

Committee Observations and Findings

2499) The Committee observed and found that the payments of Ksh. 1,595,042 in the cashbook not in the bank statement that remained outstanding for over 6 months have since been reversed.

Committee Recommendations

2500) The Committee recommended that:

1) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.**
2) **Accounting officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

937.3 Variance between IFMIS Generated Trial Balance and Financial Statements

2501) The IFMIS generated trial balances differed with financial statements balances as follows.

Item	Codes		IFMIS Trial Balance Ksh.	Financial Statements Ksh.	Difference Ksh.
Bank Balances	6530000	Recurrent	2,503,714,337	85,244	2,503,629,093
	6540000	Development	246,408,366	3,654,746	242,753,620
	6550000	Deposits	43,903,947	14,267,774	29,636,173
Cash Balances	6580000	Cash in Hand	5,944,468,394	-	5,944,468,394
Training Expenses	2210700		110,151,452	95,642,452	14,509,000
Impressts	6710000/ 6740000/ 6760000/ 6780000		3,790,355	477,591	3,312,764
Deposits	7310000		3,788,070	14,267,774	-10,479,704

2502) In addition, district suspense amount of Ksh. 3,585,690 has been omitted from the receivables under Note 11 on accounts receivables district suspense balance of Ksh. 125,418 to the financial statements. The accuracy of the cash and bank, training expenses, imprest and deposit balances reflected in the financial statements of Ksh. 18,007,764, Ksh.95,642,452, Ksh.477,591 and Ksh.14,267,774 respectfully could not be confirmed. Consequently, the accuracy, completeness and validity of the financial statements for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

2503) The district suspense amount of Ksh.3,585,690 was money disbursed to National archives in various stations during the year. The disbursement was done in May 2018 and the station had incurred the expenditure by the closure of the financial year under review. In addition, the differences noted during the audit arose due to auto reconciliation having not been completed in IFMIS. We have since cleared the differences after auto reconciliation was done in IFMIS and the financial statements revised accordingly.

Committee Observations and Findings

2504) The Committee observed and found that the district suspense amount of Ksh.3,585,690 was money disbursed to National archives in various stations during the year.

Committee Recommendations

2505) The Committee recommended that:

1) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.**
2) **Accounting officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and**

accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

938. Pending Bills

2506) Pending bills amounting to Ksh. 25,716,485 chargeable to both the Recurrent and Development Vote 1133 were not settled during the year but were instead carried forward to 2018/2019 financial year. Had these bills been cleared and charged to the Vote, the statement of receipts and payments for the State Department for Culture and Heritage for the year 2017/2018 would have reflected a deficit of Ksh. 21,498,903 instead of a surplus of Ksh. 4,217,582 now shown.

Submission by the Accounting Officer

2507) The pending bills of **Ksh. 25,716,485** had been fully processed but were not paid due to lack of exchequer.

Committee Observations and Findings

2508) The Committee observed and found that the pending bills amounting to Ksh. 25,716,485 chargeable to both the Recurrent and Development Vote 1133 were not settled during the year but were instead carried forward to 2018/2019 financial year.

Committee Recommendation

2509) The Committee recommended that:

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

939. Accounts Payable

2510) Included in the account payable balance of Ksh. 14,267,774 is Ksh.1,706,793 recorded as EFT collections whose creditor details were not disclosed. In the absence of proper details, the existence of Ksh. 1,706,793 creditors are doubtful. Further, the financial statement balance of Ksh. 14,267,774 differed with the IFMIS balance of Ksh. 3,131,795,830.30 resulting to unexplained variance of Ksh. 3,117,528,056. In the circumstances, the accuracy of the account payable balances reflected in the financial statements of Ksh. 14,267,774 could not be confirmed.

Submission by the Accounting Officer

2511) The amount recorded as EFT collections was Ksh.516,097 and not Ksh.1,706,793. In addition, the variance between the IFMIS balance of Ksh.3,131,795,830.30 and financial statement balance of Ksh.14,267,774 has since been cleared after auto reconciliation was done in IFMIS.

Committee Observation and Findings

2512) The Committee observed and found that the amount recorded as EFT collections was Ksh.516,097 and not Ksh.1,706,793. In addition, the variance between the IFMIS balance of Ksh.3,131,795,830.30 and financial statement balance of Ksh.14,267,774 has since been cleared.

Committee Recommendations

2513) The Committee recommended that:

1) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.**
2) **Accounting Officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

940. Transfers to Other Government Units

2514) The statement of receipts and payments for the year ended 30th June 2018 reflect Ksh.2,817,534,350 in respect of transfers to other government units. However, in some of the entities, the confirmed receipts were Ksh.1,463,898,100 against respective amounts disbursed of Ksh1,483,183,950. The variances of Ksh. 19,285,850 has not been reconciled or explained.

2515) Further, expenditure returns for the Ksh.18,750,000 transferred to National Product Industry have not been provided for audit review . As a result, the accuracy of the total transfers to other Government units of Ksh.2,817,534,350 reflected in the financial statements as at 30 June 2018 could not be confirmed.

2516) The transfers to Other Government Units for the Financial Year 2017/2018 were made as shown below: -

S/No.	Government Unit	Financial Statements Ksh.	Beneficiary Confirmation Ksh.	Difference Ksh.
1	Kenya Cultural Centre	52,500,000	52,500,000	-
2	Kenya Film Commission	109,422,000	109,422,000	-
3	Kenya Film Classification Board	366,754,600	366,754,600	-

4	Kenya National Library Services	1,117,444,400	1,117,444,400	-
5	Institute of Primate Research	23,500,000	23,500,000	-
6	National Museums of Kenya	995,896,750	1,025,893,500	29,996,750
7	Natural Product Institute	18,750,000	18,750,000	-
8	Kenya Film School	49,266,600	49,266,600	-
9	FEPACI	84,000,000	84,000,000	-
Total		**2,817,534,350**	**2,847,531,100**	29,996,750

2517) Out of the amount of Ksh.1,025,893,500 transferred to National Museums of Kenya, Kshs.29,996,750 was for acquisition of assets i.e. Refurbishment of : -

i) Tom Mboya Memorial - Kshs.10,713,125
ii) Kapenguria Six Facility - Kshs.10,713,125
iii) Lokitang Memorial - Ksh.4,285,250
iv) Maralal Kenyatta House - Ksh.4,285,250

2518) The said amount of Ksh. 29,996,750 was not budgeted for as a grant, but under acquisition of assets. The Variances of Ksh. 19,285,850 were as per the audit report indicated below: -

S/No.	Government Unit	Amount Disbursed Ksh.	Beneficiary Confirmation Ksh.	Difference Ksh.
1	Kenya Cultural Centre	52,500,000	52,500,000	-
2	Kenya Film Classification Board	366,754,600	366,754,600	-
3	National Museums of Kenya	1,025,893,500	1,025,893,500	-
4	Natural Product Institute	18,750,000	18,750,000	-
5	Kenya Film School	49,266,600	49,266,600	-

We hereby confirm that the Variances have since been reconciled as shown below:

2519) Grants of Ksh.49,266,600 for Kenya Film School were not transferred since the Institute had no bank account and a board in place. However, the State Department facilitated the processing of their Payments from the State Department Headquarters. Expenditure returns for the Ksh.18,750,000 transferred to Natural Product Institute are available for audit verification.

Committee Observations and Findings

1) The Committee observed and found that the grants of Ksh.49,266,600 for Kenya Film School were not transferred since the Institute had no bank account and a board in place. However, the State Department facilitated the processing of their Payments from the State Department Headquarters.

Committee Recommendations

2520) The Committee recommended that:

1) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.**
2) **Accounting Officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

941. Acquisition of Assets

2521) The statement of receipts and payments reflects Ksh.45,002,622 in respect of acquisition of assets for the year ended 30 June 2018. However, a review of the related payment records disclosed that only assets worth Ksh.32,505,872 could be confirmed. Further, assets worth Ksh.25,140,000 were omitted from the financial statements as indicated below:

Submission by the Accounting Officer

2522) Upon revision of the Financial Statements for the Financial Year 2017-2018, the revised amount for acquisitions of assets is Ksh.42,387,592. The breakdown for the same is as follows: -

1) Refurbishment of non-residential buildings-Kshs.29,996,750 (transferred to National Museums of Kenya Development Budget)
2) Installation of Mobile Shelves- Department of National Achieves- Kshs.3,749,999
3) Integrated Records Management System-Kshs.736,800
4) Installation of Library Management Information System- Kshs.1,953,043
5) AIEs issued to National Achieves Field offices- Kshs.1,780,000

All the Payment Vouchers & Supporting documents for the expenditure of Kshs.42,387,592 are available for audit verification.

Committee Observations and Findings

2523) The Committee observed and found that:

1) All the Payment Vouchers & Supporting documents for the expenditure of Kshs.42,387,592 are available for audit verification.

Committee Recommendations

2524) The Committee recommended that:

1) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.**
2) **Accounting Officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

942.1 33-Seater Bus

2525) Note 9 of the financial statements reflect a nil balance in respect of additions of motor vehicles while a 33-seater bus was bought during the year under review at a cost of Ksh.5,140,000. The existence, ownership, safety, valuation and custody of the bus remain doubtful as at 30 June 2018.

Submission by the Accounting Officer

2526) A 33-seater bus was procured using current grant to Kenya Film School at a cost of Ksh.5,140,000 and therefore it could not appear under acquisition of assets.

Details of the bus have since been availed for audit verification.

Committee Observations and Findings

1) A 33-seater bus was procured using current grant to Kenya Film School at a cost of Ksh. 5,140,000 and therefore it could not appear under acquisition of assets; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2527) The Committee recommended that:

1) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.**
2) **Accounting Officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

942.2 Integrated Records Management System (IRMS)

2528) The State Department had a development budget of Ksh.50,000,000 for establishing an Integrated Record Management System (IRMS). Included in this figure were other equipment purchased such as a server, scanners, computers, laptops and furniture worth

Ksh.20 million which were not supported with itemized schedules to enable verification of same. Further, the amount of Ksh.20million was omitted in the acquisition of assets total balance of Ksh.45,002,622 for the year under review. In the circumstances, the accuracy of the acquisition of assets total balance of Ksh.45,002,622 could not be confirmed for the year ended 30th June 2018.

Submission by the Accounting Officer

2529) The State Department had a development budget for the financial year 2016/2017 of Ksh.50,000,000 for establishing an Integrated Record Management System (IRMS) out of which equipment was procured worth Ksh.20 million. Itemized schedules have since been availed. This amount could not appear under acquisition of assets.

Committee Observations and Findings

2530) The Committee observed and found that the State Department had a development budget for the financial year 2016/2017 of Ksh.50,000,000 for establishing an Integrated Record Management System (IRMS) out of which equipment procured worth Ksh.20million.

Committee Recommendations

2531) The Committee recommended that:

1) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.**
2) **Accounting Officers should duly present complete financial and accounting records including support documents to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012. Failure to provide information to the Auditor-General within reasonable time without justification is an offence and any Accounting Officer who commits the offence be held individually culpable.**

943. Pan African Organization of Film Maker (FEPACI)

2532) A Memorandum of Understanding (MOU) was signed on 23rd December 2013 between the then Ministry of Sports, Culture and the Arts and the Pan African Federation of Film Makers (FEPACI). According to the MOU, the Ministry was to provide financial resources at Ksh.84,000,000 annually for four (4) years with effect from 2014/2015 in respect of management and operations of the Secretariat Office in Kenya. The funds were to be disbursed and utilized under the terms and conditions governing the management of public funds. As at the time of audit carried out in December 2018, the Ministry had disbursed a total of Ksh.334,421,573 as shown below: -

Financial year	Amount Ksh.
2014/2015	85,985,637
2015/2016	64,000,000
2016/2017	84,681,554
2017/2018	99,754,382
Total	334,421,573

2533) Accordingly, the Ministry was required to monitor and guide operations of FEPACI as per the appendix to the MOU. However, no evidence was made available indicating that the ministry carried out its monitoring role. Consequently, the following anomalies were noted:

943.1 Unauthorized Bank Account

FEPACI operated a bank account with a local bank without National Treasury approval contrary to Section 28(1) of the PFM Act, 2012. The Secretariat was in breach of the law.

Submission by the Accounting Officer

2534) Ministry officials were appointed on 24th March 2016 to monitor and guide operations of FEPACI. It is worthy to note that FEPACI was founded in 1969 and is registered in Kenya as a company limited by guarantee and not having a share capital. FEPACI therefore opened a bank account as guided by its Memorandum and Articles of Association.

Committee Observations and Findings

2535) The Committee observed that FEPACI was founded in 1969 and is registered in Kenya as a Company Limited by Guarantee and not having a share capital. FEPACI therefore opened a bank account as guided by its Memorandum and Articles of Association.

Committee Recommendation

2536) The Committee recommended that:

Since FEPACI is not a national government entity it should not require the authority of the National Treasury to open and operate bank accounts as per the provision of Section 28 (1) of the PFM Act, 2012.

943.2 Closure of FEPACI Operations in Kenya Closure of FEPACI Operations in Kenya

2537) FEPACI closed its operations in Kenya on 30 June 2018 and at the time of closure, the federation had a bank balance of Ksh.29,338,898 and cash in hand balance of Ksh.45,526. No documentary evidence was availed to show the balances were refunded back to the State Department. Further, as at the date of closure of its operations in Kenya on 30 June 2018, an amount of Ksh. 1,858,640 being receivables due from unsurrendered imprests, rent, and water and electricity deposits. The un surrendered imprests included Ksh.1,044,134 issued per diem to the Secretary General and others. In addition, as at the closure of operations on 30 June 2018 FEPACI had accrued trade and other payables amounting to Ksh.16,296,026. No explanation was given as to how these debts would be settled.

Submission by the Accounting Officer

2538) The bank balances amounting to Ksh.29,338,898 have not yet been refunded back to the State Department since the accounts were frozen. This amount is still withheld by Commercial bank of Africa. I have since requested Commercial Bank of Africa Vide letter Ref: MOSCA 12/5 (c) Vol.II dated 25th February 2019 to return the unutilized funds to the National Treasury. Cash in hand amount was Ksh.47,900 and was utilized to pay salary advance to a Mr. Maurice Murimi who was the finance manager. In addition, we also state that imprest of Ksh 1,112,680 was recovered from the Secretary General in the months of July to February 2018 as follows: -

Withheld allowance	**Year**	**USD**	**KSH**
July	2017	1500	150,780
August	2017	1500	150,180
September	2017	1500	150,780
October	2017	1500	150,180
November	2017	1500	150,780
December	2017	1500	150,180
January	2018	1500	150,780
February	2018	569.24	150,180
TOTAL		**11,069**	**1,112,680**

2539) Further, we wish to state that trade and other payables amounting to Ksh.16,296,026 are still pending due to the frozen bank account. We have since sought intervention by the office of the Attorney General and The National Treasury to have the bank accounts reinstated and all liabilities paid. FEPACI'S lease ended on 30th June 2018. Due to the stalemate created by the Secretary General, management negotiated a lease extension of two months with the landlord with the understanding that the two months' rent deposit would cover the extension. The FEPACI Secretariat in Kenya officially closed its doors on 31st August, 2018.

Committee Observations and Findings

2540) The Committee observed and found that:

1) The bank balances amounting to Ksh.29,338,898 not yet been refunded back to the State Department since the accounts were frozen. This amount is still withheld by Commercial bank of Africa;
2) Cash in hand amount was Ksh.47,900 and was utilized to pay salary advance to a Mr. Maurice Murimi who was the finance manager; and
3) FEPACI'S lease ended on 30th June 2018. Due to the stalemate created by the Secretary General, management negotiated a lease extension of two months with the landlord with the understanding that the two months' rent deposit would cover the extension.

Committee Recommendation

2541) The Committee recommended that:

1) **The Accounting Officer should within three (3) months of tabling, adoption of this report, follow up with the office of the Attorney General, and the CS National Treasury to have the bank accounts reinstated and all liabilities paid.**
2) **The Auditor-General should within three (3) months of tabling and adoption of this reports, review this matter and report in the subsequent**

audit cycle.

943.3 Procurement of Goods and Services

2542) An audit review of FEPACI expenditure revealed that an amount of Ksh.22,799,908 was not supported. Further, FEPACI did not prepare procurement plans during the four years of operation as required by Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015. In the circumstances, .the propriety of the expenditure incurred of Ksh 22,799,908 could not be confirmed.

Submission by the Accounting Officer

2543) The expenditure revealed as per the appendix is explained as follows:

1. Tamarind Translations Ksh. 1,527,124

2544) Tamarind Translations whose service was to do translation of various documents was paid Ksh.1,527,124. FEPACI used the criteria of quality of work not the lowest bidder. We were looking at working with African Union (AU) certified translating institutions. Tamarind met this criterion. Contracts with consultants and other service providers specified that they would only be paid upon delivery of satisfactory work. The translated documents were delivered on soft copy and utilized.

1. LA Paper Supplies Co.Ltd Ksh. 171,680

2545) LA Paper Supplies Co. Ltd was to supply of stationery. All the stationery ordered from Lapper was delivered, inspected and accepted.

2. M/s Speed Bird Travel &Safaris Ltd Ksh.587,500

2546) The above company was paid for services relating to air travel for FEPACI secretariat to Addis Ababa

3. Impact by design Ksh. 590,018

2547) Impact by Design Company’s payment amounted to Ksh.590,018 relating to event management.

4. M/s Speed Bird Travel &Safaris Ltd Ksh. 65,790

2548) Payment was done based on the invitation letters for Angela Martins and Kassim Khamis.

5. ECOCAPP capital Ksh. 4,500,000.

2549) Ecocapp Capital undertook fundraising as a process, not a one-day event. The fundraising was for capacity building with UNESCO and Centres of Excellence with African Development Bank. Ecocapp completed their assignment. The process is still on course awaiting the African union Commission (AUC) to submit the application of us$600,000 for feasibility study of the Centres.

6. Communications Pathways Ksh. 7,555,000

2550) Payment was based on the boarding passes, visa receipts, visa refund voucher, per diem voucher and accommodation and conferencing invoices.

7. AAR insurance Ksh. 1,590,296

2551) Payment was based on the AAR policy document.

8. ECOCAPP Capital Ksh. 6,212,500

2552) ECOCAPP capital was identified to develop FEPACI's business plan and design its programmes. Attached reports are:

(a) The decision of the ministers of youth, culture and sport of the African Union member states at the Specialized Technical committee on youth, Culture and sport establishing the Africa Audiovisual and cinema commission, June 2016

(b) Declaration of the Ministers Meeting 13th to 17th September,2017

(c) Draft report of the Forth Ordinary session of the specialized Technical committee on justice and legal affairs, November2018, and African Audiovisual and Cinema Commission (AACC) statutes.

2553) Further, we also wish to state that the Rules of Governance concerning Contracting with Third Parties coupled with the Articles of Association 41(d) guided FEPACI's procurement relating to Powers of the Board of Directors.

Committee Observations and Findings

2554) The Committee observed and found that

1) FEPACI did not prepare procurement plans during the four years of operation as required by Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015.

Committee Recommendations

2555) The Committee recommended that:

The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.

943.4 Irregular per Diem Payments to a Consultant

2556) An amount of Ksh. 928,881 was paid to a Mr Nderitu Muriithi being per diem and airfare while attending FEPACI meetings in South Africa. However, it was noted that the payee was a consultant and therefore did not qualify for per diem payments as listed below:

Date	Cheque No.	Payee	Details	Amount Ksh.
27/10/2015	509 & 483	Mr. Nderitu Muriithi	Travel to Johannesburg South Africa	579,627
25/9/2015	463	Mr. Nderitu Muriithi	Trip to South Africa	331,254
Total				910,881

The payment was therefore ineligible and should be refunded back to the State Department.

Submission by the Accounting Officer

2557) These trips made by Nderitu were necessary for the design of FEPACI'S five programmes namely: African Audiovisual and Cinema Commission (AACC), Ambika Capacity Building, Centres of Excellence and Scaling up distribution. FEPACI'S contract with. ECOCAPP Capital. These programmes did not include travel and out of pocket, expenses hence these expenses were to be met by FEPACI.

Committee Observations and Findings

2558) The Committee observed and found that:

1) These trips made by Mr. Nderitu were necessary for the design of FEPACI'S five programmes. ECOCAPP Capital in these programmes did not include travel and out of pocket expenses hence these expenses were to be met by FEPACI;
2) The explanation by the Accounting Officer was satisfactory and therefore the matter was resolved.

943.5 Audit of FEPACI Financial Statements by Private Firms

2559) FEPACI did not submit accounts for audit by the by the Auditor General as required by Section 81(4) of the PFM Act, 2012 despite a clear disclosure in the memorandum of understanding that funds so disbursed were to be utilized under the terms and conditions governing the management of public funds. As a result, during the four (4) years of operations, FEPACI hired a private audit firm and paid audit fees totaling to Ksh.3,289,594.00 without seeking approval of the Auditor General. The amount is not a proper charge to public funds. In view of the foregoing, the four-year operations of FEPACI have not been within the Public Finance Management Act, 2012 and the accountability of the Ksh.334,421,573 disbursed to the secretariat could not be confirmed as at 30 June 2018.

Submission by the Accounting Officer

2560) FEPACI's accounts were audited at the end of every financial year as per the MOU and FEPACI'S Articles of association 62 and 63 relating to audit. The audit was carried out as per the required Accounting standards for the years 2014/15, 2015/16 ,2017/18 with provision of management letters and signed accounts.

Committee Observations and Findings

2561) The Committee observed and found that:

1) The Committee observed that the explanation by the Accounting Officer was satisfactory; and
2) The Committee marked the matter as resolved.

944. Compensation to Employees

2562) During the year under review, the compensation of employees costs increased from Ksh.150,508,146 in 2016/2017 to Ksh.270,004,366 resulting to an unexplained difference of Ksh.119,496,220 or 79.3% increase. The huge increase has not been explained or justified by the management.

Submission by the Accounting Officer

2563) The 79.3% increase in compensation of employees was because of the Sports Department paying salaries for Culture Department for 7 months (July to January 2018) after the Ministry was split into two State Departments.

Committee Observations and Finding

2564) The Committee observed and found that:

1) The 79.3 percent increase in compensation of employees was because of the Sports Department paying salaries for Culture Department for 7 months (July to January 2018) after the Ministry was split into two State Departments;
2) The explanation by the Accounting Officer was satisfactory; and
3) The Committee marked the matter as resolved.

945. Unresolved Prior Year Matters

945.1 Uzalendo Festival and Renovation of Three (3) Monuments

2565) As previously reported, the State Department of Culture and Arts disbursed an amount of Ksh.28 Million to the National Museums of Kenya. This was to finance Uzalendo Festival, which was to at Uhuru Gardens for three (3) days from 10 December 2016 at a cost of Ksh.20 Million while the balance of Ksh .8 million was to cater for the renovation of monuments. The receipts and invoices to support the total expenditure of Ksh. 28million were not availed for audit. A review of the position in 2017/2018 revealed that the supporting document were still outstanding.

Submission by the Accounting Officer

2566) As indicated in our response for 2016/2017 PAC report para. 387, National Museums of Kenya contracted Moving Media Ltd as event organizers of the Uzalendo festival at a cost of Ksh.20 million and payments were made as stipulated in the general condition of the contract and no other expenses were incurred outside the contracted amount. The payment vouchers, contract agreement and the invoices have been availed for audit verification. In addition, with regard to Ksh.8million that was meant for rehabilitation of three monuments, I would like to state as follows: That management was facing emergencies due to the near collapse of the Ainsworth building that houses the Directorate of Sites and Monuments and the terrorism alerts on public spaces. Ksh. 1,663,315 were utilized for rehabilitation of Ainsworth building and Ksh. 4,193,300.20 was utilized to construct the perimeter wall in order to mitigate the threats.

Committee Observations and Findings

2567) The Committee observed and found that the receipts and invoices to support the total expenditure of Ksh. 28million were not availed for audit. A review of the position in 2017/2018 revealed that the supporting document were still outstanding.

Committee Recommendation

2568) The Committee recommended that:

The CS National Treasury should within three (3) months of tabling and

adoption of this report, issue a letter of reprimand to the then Accounting Officer. The Accounting Officer violated Section 9(1e) of the Public Audit Act, 2015 that gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

946. Unsupported Pending Bill

2569) As previously reported, an amount of Ksh. 6,782,758 paid on 27 June 2017 to the Standard Group Ltd as balance for the Smithsonian Kenya Mambo Poa Festival and hosting Radio Talk Shows held in May and June 2014. It was then noted that the invoices worth Ksh. 7,868,000 attached to the payment voucher dated back to the year 2014/2015 and had not been appearing in the list of Pending Bills. To date, the validity and propriety of the expenditure of Ksh. 6,782,758 cannot be confirmed.

Submission by the Accounting

2570) As indicated in our response for 2016/2017 PAC report para. 388. The payment voucher of Ksh.6,782,758 paid to the Standard Group Ltd was a pending bill that had not been included in the financial statements of the Ministry of Sports, Culture and the Arts in the subsequent years 2014/2015 and 2015/2016. However, the AIE holder certifying the payment supports the payment voucher and a space order was availed for audit verification.

Committee Observations and Findings

2571) The Committee observed and found that the payment voucher of Ksh.6,782,758 paid to the Standard Group Ltd was a pending bill that had not been included in the financial statements of the Ministry of Sports, Culture and the Arts in the subsequent years 2014/2015 and 2015/2016.

Committee Recommendation

2572) The Committee recommended that:

The Auditor-General should within three (3) months of tabling and adoption of this reports, review the revised financial statements and report in the subsequent audit cycle.

947. Budget and Budgetary Performance

947.1 Receipts

2573) Actual revenue realized amounted to Ksh.3,548,177,895 against a budget of Ksh.3,580,611,123 resulting to a shortfall of Ksh.32,433,228 or 1%.

The shortfall in budgeted receipts of Ksh.32,433,228 implies that some activities of the state department were not achieved as planned.

Receipts	Budget Ksh.	Actual Ksh.	Excess/(Shortfall) Ksh.	Variance %
Tax Receipts	8,600,000	8,600,000	-	-
Exchequer releases	3,570,011,123	3,537,631,985	(32,379,138)	17
Other Releases	2,000,000	1,945,910	(54,090)	3
Total	**3,580,611,123**	**3,548,177,895**	**(32,433,228)**	1

2574) The shortfall in budgeted receipts of Ksh. 32,433,228 implies that some activities of the State Department were not achieved as planned.

Submission by the Accounting Officer

2575) The shortfall of Ksh.32,379,138 was mainly occasioned by non-receipt of exchequer. It is worth noting that the State Department managed to collect Appropriations in Aid (AIA) amounting to Ksh.1,945,910 (99%) of the budget (Ksh.2000,000) with only a shortfall of Ksh.54,090 as compared to the previous year's collection of Ksh.1,483,742 (74%).

Committee Observations and Findings

2576) The Committee observed and found that the shortfall of Ksh.32,379,138 was mainly occasioned by non-receipt of exchequer. It is worth noting that the State Department managed to collect Appropriations in Aid (AIA) amounting to Ksh.1,945,910 (99%) of the budget (Ksh.2000,000) with only a shortfall of Ksh.54,090. The explanation by the Accounting Officer is satisfactorily and therefore the matter was resolved.

947.2 Expenditure Expenditure

2577) Actual expenditure amounted to Ksh.3,543,960,313 against the approved budget of Ksh.3,580,611,123 resulting in an under expenditure of Ksh.36,650,810 or 1% .The under expenditure implies that the budgeted activities of the state department were not achieved as planned.

Submission by the Accounting Officer

2578) The actual expenditure during the year under review amounted to Ksh.3,543,960,313 against the approved budget of Ksh.3,580,611,123 resulting to an under expenditure of Ksh.36,650,810 (1%). This under expenditure resulted from non-receipt of exchequer and long procurement procedures, which resulted into pending bills. It is worth noting that the Ministry was able to absorb 99% of the budgeted expenditure and therefore it managed to undertake almost all the activities the budgeted funds were meant for.

Committee Observations and Findings

2579) The Committee observed and found that the under expenditure resulted from non-receipt of exchequer and long procurement procedures, which resulted into pending bills. The explanation by the Accounting Officer is satisfactorily and therefore the matter was resolved.

2580) The Committee observed that Paragraph 948 to 949 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

30.0. STATE DEPARTMENT FOR ENERGY

FINANCIAL STATEMENTS FOR VOTE 1152

Dr. Eng. Joseph Njoroge, the Principal Secretary and Accounting Officer for the State Department of Energy and Petroleum (Vote 1152) appeared before the committee on 5th March 2020 to adduce evidence on the Audited Financial Statements for the State Department of Energy and Petroleum (Vote 1152) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). The following officials accompanied him:

1.	Mr. Moses Gitau	-	Assistant accountant General
2.	Mr. Richard Mavisi	-	Senior Principal Superintending
3.	Ms. Jedidah Macharia	-	Principal accountant
4.	Mr. Murithi Ngundo	-	Principal accountant
5.	Mr. William Mbaka	-	Senior Chief Finance Officer
6.	Eng. Isaac Kiva	-	Senior Principal Economist.

Basis for Qualified Opinion

950. Land without Titles Deeds

2581) As reported in 2016/2017, the State Department for Energy does not have title deeds for eight (8) parcels of land it occupies totaling 21.42 hectares valued at approximately Ksh.180,700,000. The parcels of land are located in various counties. Information available indicate that the process of acquiring titles for some of the land parcels has been underway for significantly long duration. From the foregoing, it has not been possible to confirm the rightful owners of these parcels as well as the risk of being encroached upon by squatters and land grabbers.

Committee Observations and findings

1) The Committee observed and found that the matter was discussed during the Examination of the Accounts of State Department of Energy for the Financial Year 2016/17 and a recommendation made therein.

951. Un-Surrendered Imprest

2582) The financial statements reflects accounts receivables balance of Ksh.s.139, 114,489 as at 30th June 2018. This balance includes district suspense balance of Ksh.s.137, 586,321 which had not been surrendered to the head office by the time of concluding the audit. Under the circumstances it was not possible to confirm that the district suspense is free from the risk of misappropriation.

Submission from the Accounting Officer

2583) The Accounting Officer admitted that the amount stated of Ksh.s.139,114,489 was outstanding as at 30th June 2018 which included district suspense balance of Ksh.s.137,586,321 and had since been surrendered as per the tabled IFMIS report.

Committee Observation and Findings

2584) The Committee observed and found that:

1) The Committee observed that the Suspense balance has since been surrendered, and the matter resolved.

952. Budget Performance – Use of Goods and Services

2585) During the year under review, approved final budget for use of goods and services was Ksh.s.1, 029,780,080. Out of this only Ksh.s.564, 451,806 was absorbed resulting in under absorption of Ksh.s.465, 328,274 or 45percent of the total budget.

2586) The under absorption of the approved budget may have resulted to slow down implementation of activities and project in the departments work plan, for which the funds were budgeted. This may have impacted negatively on the service delivery to the people of Kenya.

Submission from the Accounting Officer

2587) The Accounting Officer admitted that the year under review there was an under absorption of Ksh.465,328,274 or 45percent of the total budget. This was as a result of late approval of Supplementary budget II 0f 2017/18 financial year hence under provision of exchequer releases in the fourth quarter.

Committee Observation and Findings

2588) The Committee observed and found that the Committee observed that the under absorption was because of late approval of Supplementary budget II 0f 2017/18 financial year.

Committee Recommendation

2589) The Committee recommended that:

1) **The CS National Treasury should ensure that any supplementary budget estimates is submitted to Parliament at least two months before the close of the affected Financial Year; and**
2) **Section 44 of the PFM Act, 2012 should be amended to provide that supplementary budget estimates are submitted to Parliament not later than two months (60 days) before the close of the Financial Year.**

953. Pending Bills

2590) The statement of receipts and payments reflect payments totaling Ksh.s.75, 051,315,555 for the year ended 30 June 2018. This amount excludes pending bills of Ksh.s.133, 684,202 that have been carried forward to 2018/2019 financial year. Had the pending bills been settled in the year under review, the financial statements would have reflected a reduced surplus of Ksh.s.8, 117,349 instead of the reported surplus of Ksh.s.141,801,551. This is indicative of the State Departments failure to adhere to the Public

Finance Management guidelines on budgeting by incurring expenditure in excess of the approved budget. In addition, failure to settle bills in the year to which they relate adversely affects the next year's budget provision to which they have to be charged.

Submission from the Accounting Officer

2591) The Accounting Officer reported that the pending bills were occasioned by budget cut through supplementary budget after the commitments were already done. The amount of pending bills amounting to Ksh.133,684,202 has since been paid being first charge to current financial year budget. Further, the Ministry has ensured the laid down procurement regulations are adhered to as provided in Public Finance Management (National Government) Regulations, 2015.

Committee Observation and Findings

2592) The Committee observed and found that:

1) The pending bills were occasioned by budget cuts through supplementary budget after the commitments were already done;
2) The pending bills amounting to Ksh.s.133,684,202 had since been paid as a first charge on the current financial year budget, and
3) The explanation by the Accounting Officer was satisfactory; and
4) The Committee marked the matter as resolved.

954. Installed Solar DC Systems Not in Use

2593) The State Department spent Ksh.s.4, 358,328 during the year under review to install solar DC systems in six (6) dispensaries in Kitui and Makueni counties. Although the six solar DC systems had been tested and commissioned, they were yet to be utilized for the benefit of the local community because refrigerators which were to be energized were yet to be acquired. According to management, the responsibility for provision of the refrigerators to the dispensaries lies with the Ministry of Health as per undertaking made by the latter.

2594) Under the circumstances, it has not been possible to confirm there was value for money in expenditure of Ksh.s.4, 358,328 incurred by the State Department on the solar power systems.

Submission from the Accounting Officer

2595) The Accounting Officer admitted that the State Department spent Ksh.s.4,358,328 during the year under review to install solar DC systems in six (6) dispensaries in Kitui and Makueni counties. The Ministry was mandated to connect identified off-grid public facilities to solar electrical power designed to satisfy the existing and foreseen immediate electrical appliances. The Ministry of Health and the County Government were expected to equip the facilities with additional appliances as may be required.

2596) For all the six dispensaries, the solar PV installation projects have been commissioned and tested. The State Department has further brought to the attention of the county governments the need to fully equip the dispensary especially with refrigerators which are essential in storage of drugs and vaccines to utilize the solar power. Maviame dispensary has been equipped with a DC refrigerator as shown below and correspondences between the county government and the State Department for Energy.

Committee Observation and Findings

2597) The Committee observed and found that:

1) The Ministry was mandated to connect identified off-grid public facilities to solar electrical power;
2) The responsibility for the provision of the refrigerators to the dispensaries lies with the respective County Governments; and
3) The explanation by the Accounting Officer was satisfactory; and
4) The Committee marked the matter as resolved.

955. Construction of Twin Biogas Digesters Plant

2598) As reported in 2016/2017, the State Department entered into a local contract on 29 June 2016, for an amount of Ksh.7,923,405 for the supply, construction, testing and commissioning of twin biogas digesters plant in Siana Primary School - Narok County. The objective of the digester was to generate biogas using cow dung and sewage for use by the school. The contract provided for twenty (20) weeks for construction and eight (8) weeks for testing to its functional use. Available records at the State Department indicate that the contractor had been paid Ksh.5,351,300 as at 30 June 2017, based on engineer's assessment with the balance being payable upon testing of the system. Although the biogas plant construction and installation was completed in January 2017, it was yet to be tested. The delay in testing arose from inability of the system to generate biogas as a result of inadequate cow dung supply. According to the project management, the school had at the project design stage undertaken to maintain sufficient herd of cattle to adequately supply the digester with cow dung. The implementation of this project is therefore significantly behind schedule. Under the circumstances, it has not been possible to confirm whether there was value for money in the expenditure of Ksh.7,923,405 on the biogas project.

Committee Observation and Findings

2599) The Committee observed and found that:

1) The matter was discussed during the Examination of the Accounts of State Department of Energy for the Financial Year 2016/2017 and a recommendation was made therein.
2) Paragraph 956 to 961 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance was discussed and the submission by the Accounting Officer was satisfactory.

KENYA ENERGY SECTOR ENVIRONMENT AND SOCIAL RESPONSIBILITY PROGRAMME FUND

Emphasis of Matter

962. Interest on Bank Deposits

2600) The financial statements reflect interest income of Ksh.12,971,469 under revenue from exchange transactions. The bank computed interest at the rate of 2.5percent p.a. However, the agreement entered between the management of the Fund and the bank which stipulated that deposits in bank accounts held at the bank shall earn interest at the rate of 4percent p.a the Fund would have earned interest income of Ksh.s.20, 753,995 instead of Ksh.s.12, 971,469. The fund therefore underpaid by Ksh.s.7, 782,526. Further as reported in 2016/2017 audit report, the Fund received interest amounting to Ksh.s.92, 623,311 because of its deposits placed with the bank between 2007 and 2016. Included in this figure is an amount of Ksh.s.80, 017,446 for which management is yet to provide satisfactory evidence of how it was computed. Consequently, it has not been possible to confirm whether the Fund received value for its deposits with the local bank in the prior years.

Submission from the Accounting Officer

2601) The Accounting Officer admitted that during the financial year 2017/2018 the State Department received interest income of Ksh.s 12, 971,469 which was computed at a rate of 2.5percent per-annum instead of 4 percent per-annum which could have resulted to Ksh.s.20, 753,995 hence a shortfall of Ksh.s.7, 782,526. The management of the Kenya Commercial bank through a letter Ref. No. MOEP/SED/ACC/1 VOL.1 dated 20th June 2019 explained the reason for the reduction of the rates and the rate has been applied to date. In addition, the Ministry has written to the Group Chief Executive Officer Kenya Commercial Bank inviting him for a meeting to discuss on the same and the way forward. The Accounting officer reported that the Kenya Commercial Bank Kipande House (KCB) wrote a letter to the State Department management showing the computation of the Ksh.s 12, 971,469 interest income. The same formula has been used during the previous years.

Committee Observation and Findings

2602) The Committee observed and found that:

1) The State Department received interest income of Ksh.s 12, 971,469 which was computed at a rate of 2.5percent instead of 4percent p.a which could have resulted to Ksh.s.20, 753,995 hence a shortfall of Ksh.s.7,782,526;
2) The State Department entered an agreement with the bank at an interest rate of 4percent p.a; and
3) The matter therefore remained unresolved.

Committee Recommendation

2603) The Committee recommended that:

1) **Within three (3) months of tabling and adoption of this report, the Accounting Officer should institute administrative measures to ensure that the shortfall of Ksh.7,782,526 is duly remitted by the bank as per the agreement.**
2) **Within one month from the tabling and adopting of this report, the Accounting Officer should ensure the issue of interest on bank deposit has been resolved between the State Department and the Kenya Commercial Bank and a Status Report availed to the Committee for reconsideration.**

Other Matter

963. Tender for the Exploratory Coal and Coal Bed Methane Drilling Services in Kwale, Kilifi and TaitaTaveta Counties

963.1 Background

2604) A local contractor was awarded Lot 1 of the above tender on 19 May 2015 at a sum of Ksh.s.322, 839,600. The scope of work included mobilizing drilling equipment and personnel to the contract site; drilling fifty four (54) wells across nine (9) coal blocks within the sedimentary basins for exploration in Kwale County as per the sites selected by the client. The contract was to run for a period of fifteen (15) months from 29 June 2015 to 29 September 2016. The contractor commenced work after drilling sites were identified in a kick off meeting held on 16 January 2018 and was expected to complete the work in a period of eighteen (18) months.

963.2 Payment

2605) During the year under review, the contractor was paid Ksh.s.22, 272,000(inclusive of 16percent VAT) vide voucher no. 166, dated 14 December 2017. However, management did not avail certificates of work done as evidence that it was done to the agreed standards. Under the circumstances, it was not possible to confirm validity of the payment of Ksh.s.22, 272,000 made to the contractor. Further, according to documents supporting the payment, the Ksh.s.22, 272,000 was part of pending bills totaling to Ksh.s.71, 987,853 brought forward from the 2016/2017 financial year and payable from this Fund. However the Funds financial statements under review and those for the previous year do not disclose any pending bills.

Submission from the Accounting Officer

2606) The Accounting Officer Admitted that the contractor was paid Ksh.s.22, 272,000(inclusive of 16percent VAT) vide voucher no. 166, dated 14 December 2017. During the audit review, there was an omission to avail the certificate that was later availed to the Auditors to confirm that work was done to the agreed standards. There was also an omission in disclosing pending bills however, the Ministry has cleared all its pending bills as per the attached letter to the National Treasury on the issue of pending bills status dated 25th November, 2019 confirming that the Ministry has cleared the pending bills.

Committee Observations and Findings

2607) The Committee observed and found that:

1) The Certificate of works were later provided way after the audit process;
2) The Accounting Officer admitted to have omitted disclosing Ksh.s22,272,000 as part of Ksh.s.71,987,853 pending bills;
3) The matter therefore remained unresolved.

Committee Recommendations

2608) The Committee recommended that:

The Accounting Officer should within three (3) months of tabling and adoption of this report, submit to the Auditor-General, copy of the tender document, initial contract and subsequent extensions, list of payments made with corresponding timeframes and nature of work done, corresponding certificates on completion of works, and list of the directorships of the mentioned company for audit and subsequent reporting.

Basis of Conclusion

964. Expenditure not included in the Annual Work Programme

2609) The statement of comparison of budget and actual amounts for the year ended 30 June 2018 reflect total expenditure Ksh.s.451,007,436 against an approved budget of Ksh.s.202,720,000 shown in Funds annual work programme for the year under review. The Fund, therefore incurred excess expenditure of Ksh.s248, 287,436 double the budget.

Submission from the Accounting officer

2610) The Accounting Officer admitted that the annual budget for the year in question was Ksh.202,720,000, this being the annual Ministry contribution into the KEEP Fund. The activities of the Fund on afforestation are planned against current budget plus accumulated surplus funds in the Fund account of Ksh.s 543,052,801.42. The excess expenditure of Ksh.s 248, 287,436 was as a result of unforeseen legal expenses which had not been budgeted.

Committee Observations and Findings

2611) The Committee observed and found that:

1) The Accounting Officer had not appended evidence that Treasury approval was sought for the over-expenditure, and
2) The matter therefore remained unresolved.

Committee Recommendation

2612) The Committee recommended that:

The Accounting Officer should ensure that within three (3) months a post-facto approval is sought from the National Treasury on the excess expenditure of Ksh.s 248, 287,436.

965. Ineligible Expenditure

2613) Included in the afforestation- tree planting expenses of Ksh.s.364,784,387 are legal fees amounting to Ksh.s.256,387,419 (Ksh.s.32,864,585 in 2016/2017), relating to Wind Power Project Vs Government of Kenya and Energy and Ksh.s.22,272,000 relating to a contract for explanatory coal diamond core drilling services in Kwale Country. The National Treasury advised the State Department for Energy to realign its 2017/2018 approved budget with a view to identifying savings to cater for expenditure on legal/arbitration fees relating to the above mentioned cases. The Fund, therefore, incurred expenses amounting to Ksh.s.278, 659,419, which were not in pursuance to the objects and purposes for which the Fund was established.

Submission from the Accounting Officer

2614) The Accounting Officer agreed with the audit findings that there were legal fees amounting to Ksh.256,387,419 in and Ksh.s.22, 272,000 relating to a contract for explaratory coal diamond core drilling services in Kwale Country owed to Kenya Energy Sector and Social Responsibility Project (KEEP) fund.

2615) He reported that, initially the State Department had no item in its budget to cater for legal/arbitration related expenses. In the supplementary II of the 2018/2019 financial year, the State Department introduced a legal Duties/fees, Arbitration and Compensation Payment item in the budget and reallocated funds to cater for the legal/arbitration fees expenditures. However, since the case had not closed the State Department continued receiving invoices regarding the same making it difficult to make a refund to KEEP fund. The legal case has now been concluded awaiting judgment. The State Department intends to refund Ksh.278, 659,419 to the Fund account.

Committee Observations and Findings

1) The Committee observed and found that the Committee observed that the state department was yet to refund Ksh.278, 659,419 to the Fund account; and therefore the matter remained unresolved.

Committee Recommendation

2616) The Committee recommended that:

The Accounting Officer should within three (3) months of tabling and adoption of this report, refund Ksh.278, 659,419 to the Fund account.

31.0. STATE DEPARTMENT FOR PETROLEUM

FINANCIAL STATEMENTS FOR VOTE 1153

Mr. Andrew Kamau, the Principal Secretary and Accounting Officer for the State Department of Petroleum (Vote 1153) appeared before the Committee on 7th September 2020 to adduce evidence on the Audited Financial Statements for the State Department of Petroleum (Vote 1153) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). The following officials accompanied him:

1. Mr. Mathew Musyoka - Head of Finance
2. Mr. Charles Liyayi - Head of Accounts

Basis for Qualified Opinion

1005. Difference Between Financial Statement and Cashbook Ledger Balance

2617) The statement of assets and liabilities as at 30 June 2018 reflects bank balances of Ksh.138,453,176 which however, differ by Ksh.17,542,677 with the balance of Ksh.155,995,853 recorded in the cash books. In view of the anomaly, it is not possible to confirm that the bank balances of Ksh.138,453,175 shown in the financial statements as at 30 June 2018 are fairly stated.

Submission by the Accounting Officer

2618) The Accounting Officer submitted that the difference in the two sets of accounts arose due to inability of IFMIS to perform auto reconciliation. This is normally done after the CBK who are the State Department's banker upload the bank statements into the system. In the absence of bank statements the auto bank reconciliation cannot be performed conclusively hence the unreconciled items in the trial balance. Although the uploading of the bank statements is not within our jurisdiction we are in constant communication with the National Treasury through the IFMIS department to ensure that the anomaly is corrected.

2619) It was true that the statement of assets and liabilities as at 30 June 2018 reflects an aggregate recurrent and development votes bank balance of KSh.138,453,176 which however, differs by KSh.17,542,677 with the aggregate balance of KSh.155,995,853 recorded in the respective cashbooks as shown below:

Description	Amount as per General Ledger (KSh)	Amount as Per Financial Statements (KSh)	Variance (KSh)
CBK 1000302682 (Recurrent)	5,750,972.	6,739,075	(988,103)
CBK 10000302704 (Development)	150,244,881	131,714,100	18,530,781
Total	**155,995,853**	**138,453,175**	**17,542,678**

Committee Observations and Findings

2620) The Committee observed and found that:

1) The Accounting Officer failed to ensure timely reconciliation of balances in violation of Regulation 91 of the PFM (National Government) Regulations, 2015;
2) The Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure the preparation of accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts;
3) The explanation given by the Accounting Officer for failure to ensure reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year was not satisfactory; and
4) The matter therefore remained unresolved.

Committee Recommendation

2621) The Committee recommended that:

The Accounting Officer should, within three (3) months of tabling and adoption of this report, ensure a reconciliation between financial statement and cashbook ledger is duly completed and submitted to the Auditor-General for audit and reporting in the subsequent audit cycle.

Other Matter

1006. Under-absorption of Budget

2622) The State Department's summary statement of appropriation: recurrent and development combined for the year under review, reflects total approved budget of Ksh.4,145,007,740. Out of this amount, Ksh.209,309,740 and Ksh.3,935,698,000 were allocated to recurrent and development expenditures respectively representing 5% and 95% of the total budget respectively. Further, the total actual expenditure for the year amounted to Ksh.3,034,472,729 equivalent to 73% of the budget, resulting in under-absorption of Ksh.1,110,535,011 or 27% of the total budget. The under-absorption mainly resulted from three items namely use of goods and services, social security benefits and acquisition of assets.

2623) The under-absorption of Ksh.1,110,535,011 slowed down implementation of activities and projects in the Department's annual work plan that the funds were budgeted to finance and thus constrained delivery of the Department's services to the Public. Consequently, not all Department's objectives for the year ended 30 June 2018 could be achieved.

Submission by the Accounting Officer

2624) The Accounting Officer submitted that expenditure for the year amounted to KSh.3,032,161,228 equivalent to 73% of the budget and thus resulted in under-absorption of KSh.1,112,846,511 representing 27% of the budget.

2625) The under absorption of KSh.270,263,481 of Use of Goods and Services comprises of KSh.237,795,310 under the budget line item Contracted Professional Services for the Kenya Petroleum Technical Assistance Project (KEPTAP). The under expenditure was due to non-payment for consultancies in the State Department whose contracts were signed but the activities were still under implementation and the payments had not been effected since the deliverables had not been achieved as per the contracts (contract implementation was still in process for consultancies which were not paid in the end of financial year 2017-2018.

2626) The under absorption of KSh.839,683,469 of Acquisition of Assets majorly comprised of KSh.757,050,364 under the line items Purchase of Specialised Plant and Other Infrastructure and Civil Works for the LPG Distribution and Infrastructure project (Mwananchi Gas Project), KSh.54,253,394 grant receipts for the Kenya Petroleum Technical Assistance Project (KEPTAP) and KSh.17,043,634 under the budget line item Purchase of Instrumentation and Calibration Equipment for the Monitoring and Oil exploration Project.

2627) The under absorption in the LPG Distribution and Infrastructure project was due to the court case filed by the Consumer Federation of Kenya (COFEK) the court case/petition no. 359 of 2018 against the Ministry of Petroleum and Mining and National Oil Corporation of Kenya. The court case affected the implementation of the project hence there was under absorption of the project funds. The under absorption in the KEPTAP project was due to the non-receipt of foreign grant; the funds were in process during the financial year and were received in FY 2018/2019. In summary, the under-absorption mainly resulted from three items namely use of goods and services, social security benefits and acquisition of assets as shown below:

Item Description	**Budget Amount KSh.**	**Actual Amount KSh.**	**Over/ (Under) KSh.**	**Budget Absorption Rate**
Compensation of Employees	114,077,333	113,526,650	550,683	99.99%
Use of Goods and Services	1,200,585,126	930,321,645	270,263,481	77%
Transfers to Other Government Units	785,980,587	784,187,500	1,793,087	100%
Social Security Benefits	5,000,000	4,444,209	555,791	89%
Acquisition of Assets	2,039,364,694	1,199,681,225	839,683,469	59%
Total	**4,145,007,740**	**3,032,161,229**	**1,112,846,511**	**73%**

2628) Management have explained that the under-expenditure was caused by budget cuts instituted by the National Treasury during the year under review.

2629) Additionally, the under absorption of KSh.17,043,634 in the Monitoring and Oil Exploration Project was due to delayed procurement of instrumentation and calibration of equipment in the financial year.

Committee Observations and Findings

2630) The Committee observed and found that:

1) The under expenditure was due to non-payment for consultancies in the State Department whose contracts were signed but the activities were still under implementation and the payments had not been effected since the deliverables had not been achieved as per the contracts;
2) The under absorption in the LPG Distribution and Infrastructure project was due to the court case filed by the Consumer Federation of Kenya (COFEK) the court case/petition no. 359 of 2018 against the Ministry of Petroleum and Mining and National Oil Corporation of Kenya. The court case which was finally withdrawn affected the implementation of the project hence there was under absorption of the project funds;
3) The under absorption in the KEPTAP project was due to the non-receipt of foreign grant, the funds were in process during the financial year and were received in FY 2018/2019;
4) Additionally, the under absorption of KSh.17,043,634 in the Monitoring and Oil Exploration Project was due to delayed procurement of instrumentation and calibration of equipment in the financial year; and
5) The explanation by the Accounting Officer was satisfactory and therefore the Committee resolved the audit matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1007. Implementation of Mwananchi Gas Project

2631) It is true that the State Department is implementing the Mwananchi Liquefied Petroleum Gas (LPG) Project initiated by the defunct Ministry of Energy and Petroleum during the 2016/2017 financial year. The project is intended to promote use of modern cooking fuels among low-income households. It entails supply and distribution of Liquefied Petroleum Gas (LPG) cylinders, grills and burners to households at subsidized prices, and erection of facilities to store the cylinders at local distribution points. The Department has engaged National Oil Corporation of Kenya to supply the gas to households. Audit of the project revealed the following anomalies:

1007.1 Incomplete supply of components

2632) In May 2017, the Ministry contracted 10 firms to supply various components of the project at an aggregate cost of KSh.999,975,230. Available records indicate that as at the close of the year under review, fulfilment of the supplier contracts was as follows:

Item	Quantity Ordered	Quantity Supplied	Balance	Ratio Supplied
Gas Cylinders	357,355	150,768	206,587	42%
Grills	357,355	272,567	84,788	76%
Burners	357,355	357,355	0	100%
40Ft Containers	258	161	97	62%

2633) Further, evidence indicates that the contracts signed between the suppliers and the Ministry did not specify contract performance durations. Therefore, it is not clear whether the Department has proper recourse to enforce the contracts in the event the firms delay or fail to deliver the components altogether. In addition, out of the 150,668 cylinders supplied only 66,103 had been inspected and an undisclosed number distributed to consumers in two counties. An estimated 88,565 cylinders were held at National Oil Corporation stores in Nairobi pending inspection and certification for conformity with the supply requirements.

1007.2 Possible loss of funds

2634) One of the two suppliers contracted to supply 148,898 cylinders delivered 23,873 cylinders in July 2017 at a cost of Ksh.52,496,727 but 15,350 of the cylinders valued at Ksh.33,754,650, equivalent to 64% of the number supplied, were found to be faulty. Attempts by the Department to enforce the performance bond of Ksh.40,344,393 provided by the supplier were unsuccessful. According to the bond issuer, the performance bond was not of first-demand category and therefore did not cover liability for the faulty supplies. Apparently, the firm was awarded the contract in spite of having provided a performance bond issued by an insurance company even though the special and general conditions of the supply contract required the firm to provide performance security in form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank acceptable to the Ministry. In the circumstance, the sum of Ksh.33,754,650 paid to the supplier for the faulty cylinders is at risk of loss as it was not secured.

1007.3 Pending bills

2635) As at 30 June 2018, the State Department had incurred expenditure amounting to Ksh.870,339,283. However, only Ksh.481,178,433 had been paid resulting to pending bills balance of Ksh.389,160,850 as at 30 June 2018.

1007.4 Sustainability of the Project

2636) The status of the project remains unclear as its implementation appears to have stalled. Further, budgetary allocations to the project were reduced by 50% from the initial two-billion to one-billion shillings in 2016/2017 financial year. It is doubtful whether the Department will implement the project to the scale envisaged at its inception. Consequently, value-for-money has not been obtained on expenditures totaling Ksh.870,339,283 incurred on the project as at 30 June 2018.

Submission by the Accounting Officer

2637) The Accounting Officer submitted that the State Department for Petroleum engaged National Oil Corporation of Kenya to supply the gas to households and in May 2017, the Ministry contracted 10 firms to supply various components of the project at an aggregate cost of KSh.999,975,230. The general and special conditions of the contract specified that the performance security in the form of Bank guarantee drawn by a bank licensed be provided by the successful tenderer. One of the supplier contracted provided a performance bond issued by an insurance company. Section 62(1b, c&d) of the PPDA 2015 Act stipulates that a tender security shall be in the form of; a bank guarantee; a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority and; or a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya.

2638) Also, the contract period for the delivery of the LPG cylinders was 12 weeks (3 months). From the condition of the contract, the State Department could resolve the contract disputes arising from contract execution through arbitration in accordance with the Arbitration Rules of the Arbitration Act 2012 of Kenya. An extract of the conditions of contract was attached for perusal by the Committee.

2639) The Consumer Federation of Kenya (COFEK) filed court case/petition no. 359 of 2018 against the Ministry of Petroleum and Mining and National Oil Corporation of Kenya stopping the implementation of Mwananchi LPG Project and investigation by CID affected the implementation of the project. Subsequently, the Consumer Federation of Kenya (COFEK) has withdrawn the court case/petition no. 359 of 2018 against the Ministry of Petroleum and Mining and National Oil Corporation of Kenya after the Ministry agreed to fulfil the conditions agreed on. The State Department procured a Third Party Inspection Services in FY 2019/20 after the withdrawal of the court case by COFEK and clearance from the Directorate of Criminal Investigation for LPG cylinders which were procured in FY 2016/17. In conclusion, the Mwananchi Gas Project is ongoing and has not stalled.

Committee Observations and Findings

2640) The Committee observed and found that:

1) The State Department was implementing the Mwananchi Liquefied Petroleum Gas (LPG) Project initiated by the defunct Ministry of Energy and Petroleum during the 2016/2017 financial year;
2) The e project was intended to promote use of modern cooking fuels among low-income households. It entails supply and distribution of Liquefied Petroleum Gas (LPG) cylinders, grills and burners to households at subsidized prices, and erection of facilities to store the cylinders at local distribution points;
3) The State Department had engaged National Oil Corporation of Kenya (NOCK) to

supply the gas to households. In May 2017, the Ministry contracted 10 firms to supply various components of the project at an aggregate cost of KSh.999,975,230;

4) The expenditures incurred amounted to KSh.870,339,283 and aggregate payments KSh.481,178,433 resulting in pending bills of KSh.389,160,850 as at 30 June 2018;
5) Out of the 150,668 cylinders supplied only 66,103 had been inspected and an undisclosed number distributed to consumers in two counties. An estimated 88,565 cylinders were held at NOCK stores in Nairobi pending inspection and certification for conformity with the supply requirements;
6) In addition, one of the two suppliers (M/s Allied East Africa Ltd) who was contracted to supply 148,898 cylinders delivered 23,873 cylinders in July 2017 at a cost of KSh.52,496,727 but 15,350 of the cylinders valued at KSh.33,754,650, an equivalent to 64% of the number supplied, were found to be faulty;
7) Attempts by the State Department to enforce the performance bond amounting to KSh.40,344,393 provided by the M/s Allied East Africa Ltd were unsuccessful. According to the bond issuer, the performance bond was not of first-demand category and therefore did not cover liability for the faulty supplies;
8) In spite of the above, the firm was awarded the contract having provided a performance bond issued by an insurance company even though the special and general conditions of the supply contract required the firm to provide performance security in form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank acceptable to the Ministry. Therefore, the sum of KSh.33,754,650 paid to the supplier for the faulty cylinders was at risk of loss as it was not secured;
9) Further, the contracts signed between the suppliers and the Ministry did not specify contract performance durations. Therefore, it was not clear whether the Department had proper recourse to enforce the contracts in the event the firms delay or fail to deliver the cylinders altogether;
10) These shortcomings indicated the project had not attained its purpose and further, value-for-money had not been obtained on expenditures totaling KSh.870,339,283 incurred on the project as at 30 June 2018;
11) The amount paid to the supplier of faulty cylinders had not been recovered. In an application to settle the matter out of court, COFEK and the Ministry were allowed to appoint an independent inspector to ascertain suitability before they are sold to the public;
12) The State Department acknowledged that gas cylinders delivered by one of the designated suppliers did not meet the desired standards and has cited suits filed in court by the Consumer’s Federation of Kenya and investigations on the project initiated by the Directorate of Criminal Investigations as the main reasons why implementation of the project had stalled.; and
13) The matter therefore remained unresolved.

Committee Recommendations

2641) The Committee recommended that:

1) **Within three months upon tabling and adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for incurring expenditure of Ksh.870,339,283 and entering into a**

contract for procurement without lawful tender documents contrary to the provisions of section 196(1) of the Public Finance Management Act, 2012.

2) **Where the Accounting Officer fails to provide an explanation, the Accounting Officer (during the period under review) should be surcharged Ksh.870,339,283 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

2642) The Committee observed that Paragraph 1008 on effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

32.0. STATE DEPARTMENT FOR AGRICULTURE

FINANCIAL STATEMENTS FOR VOTE 1161

Prof. Hamadi I. Boga, the Principal Secretary and Accounting Officer for the State Department of Agriculture (Vote 1161) appeared before the Committee on 3rd February 2020, 4th February 2020, 24th February 2020, 1st January 2021 and 17th January 2021 to adduce evidence on the Audited Financial Statements for the State Department of Agriculture (Vote 1161) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

National Cereals and Produce Board

1. Mr. Jazere Kimote - Managing Director
2. Mr. John M. Gichuru - Finance Officer
3. Mr. Samwel Karogo - General Manager, Finance and Accounting

Strategic Food Reserve Trust Fund

4. Hon. Dr. Noah Wekesa - Chair Person Strategic Food Reserve Trust Fund
5. Mr. Omar Hassan - Fund Manager Strategic Food Reserve T. Fund

State Department for Crop Development and Agricultural Research

1. Mr. John Munyoki - Senior Chief Financial Officer
2. Ms. Charity Muriuki - Assistant Accountant General
3. Ms. Rose Ndana - Senior Agricultural Officer (Crops)
4. Ms. Grace Agili - Deputy Director
5. Ms. Lucy N.Njenga - Deputy Director
6. Mr. John Kaiwei - Principal Accounting Officer
7. Mr. Alex W.Kangera - Principal Agricultural Officer
8. Mr. Mutie Nzau - Principal Finance officer
9. Mr. Gerald Kurema - Principal Accountant
10. Mr. Edwin Oseko - Principal Agricultural Officer
11. Mr. H.N. Goro - Principal Crops Officer
12. Mr. Dennis Hamisi - Finance Officer
13. Mr. James Wanjohi - Personal Assistance to PS
14. Ms. Wangei Winfred - Finance Officer
15. Mr. Anthony Manyura - Finance Officer
16. Mr. Wesley Kiplimo - Accounts
17. Mr. Isaac I. Mutungi - Supply Chain Officer

Basis for Disclaimer of Opinion

1022. Acquisition of Assets

2643) The statement of receipts and payments for the year ended 30 June 2018 reflects an expenditure of KSh.11,010,139,696 on acquisition of assets. However, the accuracy of the amount could not be confirmed due to the following anomalies:

1022.1 Purchase of Motor Vehicles

2644) The expenditure of KSh.11,010,139,696 on acquisition of assets and as disclosed in Note 11 to the financial statements includes expenditure on construction and civil works amounting to KSh.312,920,670. Included in the expenditure on construction and civil works is an expenditure of KSh.34,517,100 incurred by the State Department in procuring three motor vehicles, a Subaru outback and two Toyota Land Cruisers. The management explained that the three vehicles were procured to facilitate the offices of the Cabinet Secretary and the Principal Secretary. However, the expenditure on the motor vehicles is an irregular charge to public funds since it was not included in the annual budget and procurement plan for the year ended 30 June 2018. In addition, it was charged to the wrong account.

Submission by the Accounting Officer

2645) The Accounting Officer submitted that it was true that the State Department for Agriculture procured vehicles amounting to KSh.34,517,100.00 during the Financial Year. During that year there was an urgent need to procure new vehicles for the office of the Cabinet Secretary and the Principal Secretary as the previously used ones had become old and unreliable. Therefore, there was need to buy reliable vehicles to facilitate these two offices.

2646) The State department temporarily committed this expenditure under the item of Construction and Civil Works and expecting that the Re-allocation will be approved by the National Treasury.

Committee Observations and Findings

2647) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the expenditure of KSh.34,517,100 incurred by the State Department in procuring three motor vehicles, a Subaru outback and two Toyota Land Cruisers under the item construction and civil works was satisfactory;
2) The Accounting Officer failed to ensure that applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012; and
3) The Committee marked the matter as resolved.

Committee Recommendations

2648) The Committee recommended that:

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

1022.2 Procurement of Agriculture Data and Information Management System

2649) The expenditure of KSh.11,010,139,696 under acquisition of assets as disclosed in Note 11 to the financial statements includes an amount of KSh.278,786,348 incurred on research, studies, project preparation, design and supervision. Included in the expenditure on research, studies, project preparation, design and supervision, is an amount of KSh.11,659,600 equivalents to 40% of the contract price of KSh.29,149,000 that was paid to a company for supply, delivery, installation, testing and commissioning of a web based Agriculture Data and Information Management System. The contract between the State Department and the company was entered into during the year 2016/2017, and the supplier has been paid KSh.26,137,600, or 90% of the contract price as of 30 June 2018.

2650) The contract provided that the supplier was to receive the payment upon training, implementation, pilot rollout and commissioning of the system. Although the company has already been paid 90% of the contract price, implementation and commissioning of the system has not been undertaken. In addition, partial training and piloting was only done in Bungoma County. The minutes and correspondences to show which other counties were to benefit were not provided for audit review. As a result, the propriety of the payment of KSh.26,137,600 could not be confirmed.

Submission by the Accounting Officer

2651) The Accounting Officer submitted that the State Department of Crop Development and Agricultural Research contracted Novel Technologies Ltd to develop the Agriculture Data and Information Management System 'ADIMS' in 2016. The company was expected to design the system, train system users, hand over the system and oversee commissioning of the system.

2652) Since contract period, the following activities and items have been completed by the company:

(i) Design, Development and Testing of the system;
(ii) Installation of the system and was hosted at KALRO Data Centre
(iii) Pilot training of field officers on use of the system, using Bungoma County;
(iv) Training of system management team at the Ministry headquarters.
(v) Implementation in Bungoma County in parallel with the existing manual system.
(vi) Training user manual developed
(vii) Well tested System Source Code compiled and submitted

2653) The remaining activities and reasons why, are as follows:

(i) Rolling out the system to other remaining counties.
To do this, the SDCD&AR was expected to procure tablets to be given to field officers to use with the system. In 2018/2019 the tablets were not procured because of lack of funds, however, the funds are available in this Financial Year and the procurement process is ongoing. Once the tablets have been procured the system will be rolled out in the remaining Counties
(ii) To ensure sustainability of the system, the system managers at Ministry HQ were to be trained as Trainers of Training(TOTs) and then work with the Novel company to train the rest of the county officers. The training of the ministry system managers has been done as per document attached. The next stage of field officers training will commence in 2020 after procurement of tablets.

(iii) The commissioning of the system is expected to happen once all the counties are trained and the Cabinet Secretary declaring end of manual data collection for everyone to use the system only.

(iv) But even as the other remaining work is awaited, the SDCD&AR is already using the system to sample farmers and undertake crop loss assessment for crop insurance programme.

Committee Observations and Findings

2654) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to amount of KSh.11,659,600 equivalent to 40% of the contract price of KSh.29,149,000 that was paid to a company for supply, delivery, installation, testing and commissioning of a web-based Agriculture Data and Information Management System was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2655) The Committee recommended that:

1) **The Accounting Officer at the material time should be held culpable for committing an offence by contravening section 68(2)(e) of the Public Finance Management Act, 2012 read together with Regulation 97 of PFM regulations 2015 and Section 62 (1) of the Public Audit Act 2015 and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both.**
2) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
3) **The matter be resolved.**

1023. Use of Goods and Services

1023.1 Procurement, Delivery and Distribution of Fertilizer

2656) The statement of receipts and payments for the year ended 30 June 2018, reflects an expenditure of 6,258,483,629 under use of goods and services and as disclosed under Note 6 to the financial statements, includes an amount of KSh.4,883,928,284, under operating expenses. The latter in turn includes an amount of KSh.3,639,979,568 incurred in the procurement of fertilizer. The State Department advertised an open national tender no. MALF/AGRIB/02/2016-2017 for procurement of various types of fertilizer. Contracts were signed on 17 January 2017 between a Trading Company and nine firms registered under the Access to Government Procurement Opportunity (AGPO) Program, for delivery of imported and locally blended fertilizer, respectively on “as and when required” basis.

1023.1.1 Budget and Budgetary Allocation for the Fertilizer

2657) The total budget for 2017/2018 financial year was 168,480 metric tonnes of fertilizer worth KSh.5,038,730,000, comprising 38,000 metric tonnes worth KSh.1,294,500,000 for the

2017 short rains season and 130,480 metric tonnes worth KSh.3,744,230,000 for the 2018 long rains season. The budget was later revised upwards to KSh.5,569,300,200. However, there was no revision in the quantity of fertilizer required. The reason given for the revision of the financial budget was that the State Department had earmarked to clear National Cereals and Produce Board (NCPB) debts which amounted to KSh.7.99 billion as at 30 June 2018. However, no documentary evidence was provided to indicate that the revision of the budget upwards was related to amounts owing to National Cereals and Produce Board (NCPB).

Submission by the Accounting Officer

2658) The Accounting Officer submitted that it was true that the budget for the fertilizer subsidy programme head was revised from KSh.4,130,000,000 to KSh.5,569,300,200 by an additional of KSh.1.4billion. The additional funds were to facilitate the State Department to reach more farmers under the fertilizer subsidy programme by reducing the price from KSh.1,800 to KSh.1,200 per bag. The National Treasury granted approval of the additional KSh 1.4 billion.

Committee Observations and Findings

2659) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to Budgetary allocation for fertilizer and the upward revision of the same from KSh.5,038,730,000 to KSh.5,569,300,200 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2660) The Committee recommended that:

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

1023.1.2 Amount and Value of Fertilizer Ordered

2661) The State Department ordered 932,000 bags of various types of fertilizer of 50 kilograms each, with the total weightage of 46,600 metric tonnes. Out of these amounts, 40,000 metric tonnes were ordered from a Trading Company, while the balance of 6,600 metric tonnes were ordered from Access to Government Procurement Opportunities (AGPO) firms. The total value of fertilizer ordered by the State Department was KSh.2,393,092,810.

2662) In addition, the National Cereals and Produce Board (NCPB) was assigned to order 115,700 metric tonnes of various types of fertilizer by the State Department in the year. The State Department had already in the meantime entered into a contract with the Supplier, the Trading Company at a cost of KSh.5,509,776,750. However, the National Cereals and Produce Board (NCPB) ordered 103,183.5 metric tonnes of fertilizer only, leaving a balance of 12,516.5 tonnes outstanding at a cost of KSh.5,719,134,745. No reasons were given for the revision of the contract prices by KSh.209,357,995 considering the order was less by 12,516.65 tonnes.

2663) Further, out of the 46,600 metric tonnes procured by the State Department from the Trading Company, 9,991.75 metric tonnes of Diamonium Phosphate (DAP 18:46:0) fertilizer worth KSh.562,190,809.60 were procured on 8 May 2018 as per Invoice No. ML 780150. However, details of Local Purchase Orders raised by either the State Department or National Cereals and Produce Board were not seen. It is, therefore, not clear which of the two entities was responsible for the procurement. The State Department paid for the consignment through payment voucher number 0255 dated 8 November 2018. This amount was not included in the pending bills for the year 2017/2018.

2664) The total fertilizer ordered by the two entities in the period amounted to 149,775.25 tonnes, all at a cost of KSh.8,112,227,555 which was shared between the State Department KSh.2,393,092,810 and National Cereals and Produce Board KSh.5,719,134,745, respectively. This procurement exceeded the budget amount of KSh.5,569,300,200 by KSh.2,542,927,355.

2665) No reason was given for failure by the State Department to order the full amount of 168,480 tonnes of fertilizer as in the approved budgeted. No explanation was provided for the revised cost of the fertilizer.

Submission by the Accounting Officer

2666) The Accounting Officer submitted that during the year under review the ministry also assigned NCPB a contract to supply 115,700 MT of various types of fertilizers at a cost of KSh.5,509,776,750. Due to inadequate funding, NCPB was only able to procure 1,771,960 x 50 kg bags (88,533 MT) at a cost of KSh.4,439,995,677.

2667) The fertilizer from ETG by NCPB was purchased using the assigned contract prices and hence there was no revision of prices. The difference of KSh. 209,357,995 is distribution costs from Mombasa to upcountry depots. The terms of the assigned contract were Cost and Freight (CFR), liner out Mombasa and thus for the fertilizers to reach upcountry depots NCPB was required to pay for the clearing and distributions costs and claim them as part of subsidy.

2668) Following the exhausition of 60,000 MT of DAP ordered by the NCPB using the assigned contract, farmers asked for more which led to urgent delivery of 10,000 MT of DAP to various depots as shown in the attached distribution list (Vol.3 Annex 1023.1.2 (e). The order was made by the Ministry after which payment of KSh. 562,190,809.62 was this Consignment.

2669) According to our records, the Ministry ordered a total of 46,000MT at a cost of KSh.2,393,092,810 while NCPB procured a total of 88,533MT at a cost of KSh.4,439,995,677 making the total procured to be 134,533MT of various types of fertilizers.

Committee Observations and Findings

2670) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to procurement exceeding the budgeted amount of KSh.5,569,300,200 by KSh.2,542,927,355 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2671) The Committee recommended that:

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

1023.1.3 The Amount of Fertilizer Delivered in the Year Under Review

2672) During the year under review, the State Department received 920,274 bags of various types of fertilizer, while the National Cereals and Produce Board received 1,619,178 bags. All these were handled by NCPB in Mombasa. All the bags were said to weigh 50 kilogrammes each, which translates to 126,972.60 tonnes. The delivery was therefore short by 22,802.65 metric tonnes or 456,053 bags of the order. No reasons were given for the failure to deliver the order in full. No sanctions were imposed on the suppliers for the failure to deliver the full contracted amount.

Submission by the Accounting Officer

2673) The Accounting Officer submitted that it was true that not all fertilizers ordered were delivered. The reasons for non-delivery are as follows: NCPB procured 88,533MT instead of 115,700MT as assigned by the ministry because they were not able to secure enough funding from Kenya Commercial Bank; and also one of the AGPO firms did not deliver a total of 11,497 x 50kg bags which they have since delivered in full and paid.

Committee Observations and Findings

2674) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the amount of fertilizer delivered in the year under review was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2675) The Committee recommended that:

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

1023.1.4 Amount paid for the Fertilizer

2676) The State Department paid an amount of KSh.1,491,656,363 to various suppliers for the delivery of 29,187.35 metric tonnes of fertilizer or 583,747 bags of fertilizer each weighing 50 kilogrammes. Out of the fertilizer procured, ordered and delivered to the State Department of Agriculture of 46,013.70 tonnes, only 29,187.35 tonnes were paid for, while 16,826.35 tonnes had not been paid for according to the information provided for audit review.

2677) It was explained that the expenditure of KSh.175,811,328 incurred by the State Department of Agriculture to procure 3171.2 metric tonnes of UREA fertilizer from the Trading Company was not settled due to lack of funds and management further explained that the payment was voided in the IFMIS on 30 June 2018. However, the cancelled payment voucher was not provided for audit and the expenditure was not reversed in the IFMIS general ledger. Further, in a letter dated 18 October 2018 another company resubmitted an invoice No 11025 requesting to be paid KSh.175,811,328 for the UREA fertilizer.

2678) In addition, the ledgers indicate that an amount of KSh.3,639,979,569, was paid in respect of the fertilizer delivered, while other records available shows an amount of KSh.1,491,656,363 only as having been paid, resulting in unreconciled and unexplained difference of KSh.2,148,323,206.

2679) Consequently, the accuracy of operating expenses of KSh.4,883,928,284 as disclosed under Note 6 to the financial statements could not be ascertained.

Submission by the Accounting Officer

2680) The Accounting Officer submitted that it was true that voucher number 000745/1 to Export Trading Company was voided due to insufficient exchequer funding and hence the amount of KSh 175,811,328 would not have been included in the computed figure of KSh 1,491,656,363. The amount of KSh. 1,491,566,363 cannot be confirmed in its current reported status due to the following reasons.

i. The amount of KSh. 175,811,328 is included and was not paid.
ii. It includes payment done to the Letters of Credit (LC) which is a second Tier of payment.

2681) The correct amount of the operating expenses was KSh. 4,883,928,784 as had been provided in the Financial Statement under note 6.

Committee Observations and Findings

2682) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the amount paid for fertilizers was satisfactory;
2) The the Accounting Officer failed to ensure timely provision of accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015; and
3) The Committee marked the matter as resolved.

Committee Recommendations

2683) The Committee recommended that:

The Accounting Officer at the material time should be held liable for committing an offence by contravening section 68(2)(e) of the Public Finance Management Act, 2012 read together with Regulation 97 of PFM regulations 2015 and Section 9 (1) (e) of the Public Audit Act 2015.

1023.1.5 Distribution of Fertilizer to NCPB Depots

2684) Records provided for audit on proposed distribution of fertilizer revealed that 1,200,000 bags of DAP, 1,014,000 bags of CAN, 100,000 bags of NPK,50,000 bags of Blend 4 and 24,0000 bags of Blend 9 fertilizers were distributed to various counties for both the short rains in October 2017 and long rains in February 2018.The distribution schedule provided by the State Department, showed that 1,200,000 bags of DAP and 1,014,000 bags of CAN were delivered to NCPB and the State Department required NCPB to have the fertilizer distributed to various depots spread across the country. Records at NCPB on the other hand shows that NCPB was required 1,400,000 bags of DAP and 1,014,000 bags of CAN of the fertilizer supplied. In addition, it was noted that NCPB could only account for 1,398,977 bags of DAP fertilizer as 1,013 bags had not been delivered to the NCPB .No reconciliation was provided between the data provided by the State Department and the data provided by the NCPB in respect of the same supply of fertilizer.

2685) Further, it is not clear how the additional 200,000 bags of DAP fertilizer were introduced into the system. It is also not clear how the 100,000 bags of NPK, 50,000 bags of Blend 4 and 24,000 bags of Blend 9 fertilizers were distributed.

2686) In addition, the CAN fertilizer delivered by the trading company was said to be of poor quality and at one time it's loading and distribution had been suspended until quality issues had to been sorted out. The fertilizer was said to be caked and attempts to make it free flowing was unsuccessful. It was not clear how the quality issue was sorted out as it was eventually distributed.

2687) Further the DAP fertilizer was observed to have inconsistent weights which ranged between 46 and 51 kilogrammes. However, this was eventually sorted out and a minimum average weight of 49.5 kilogrammes was agreed upon.

2688) In addition, NCPB had hired and independent company to carry out weights and quality survey in the fertilizer. It is not clear why NCPB had failed to seek the services of the Kenya Bureau of Standards. It is also not clear why the independent company failed to raise the observed weaknesses of weight and quality on time.

2689) Although the roles of handling the fertilizer at the port of entry, its distribution to the depots and the sale to farmers was vested in the National Cereals and Produce Board, the State Department failed to monitor and obtain feedbacks on the intended impact of the procured fertilizer. It is also not clear how much of the fertilizer that was produced by both the State Department and the National Cereals and Produce Board on behalf of the State Department was sold to farmers.

Submission by the Accounting Officer

2690) The Accounting officer admitted that NCPB was requested to procure 1,200,000 x 50kg bags of DAP and receive another 200,000 x 50kg procured by the Ministry making it a total of 1,400,000 x 50kg bags of DAP fertilizer. Due to budgetary constraints NCPB did not procure 1,013 x 50kg bags of DAP and thus making the total quantity handled by NCPB to be 1,398,977 x 50 kg bags.

2691) As mentioned in paragraph 1023.1.2, the 200,000 bags (10,000MT) of DAP fertilizer were introduced into the subsidy system in April 2018 when the 1,198,977 X 50kg bags (59,948.85 MT) procured earlier were exhausted. The order was made by the Ministry.

2692) Due to inadequate loan facilities NCPB was unable to procure the contracted 100,000 x 50kg bags of NPK 17:17:17 used by coffee farmers as at 30th June 2018. The 50,000 x 50kg bags of blend 4 and 24,000 x 50kg bags of blend 9 were distributed. The schedules were availed for perusal by the Committee.

2693) The Accounting officer admitted that caked CAN fertilizer was noticed in the warehouses of ETG in Mombasa on 29th June 2018. At this time of notice a total of 571,690 x 50kg bags of good quality free flowing CAN fertilizer had been collected from this warehouse by NCPB leaving a balance of 442,310 bags. On this date lifting was stopped and consultations held between NCPB, ETG and the State Department. After the consultations it was resolved that only free flowing CAN fertilizer should be lifted as per the contract terms. Certificates issued by an independent quality assessor hired by NCPB, confirmed that only quality CAN fertilizer was lifted to various depots.

2694) It was mandatory that KEBS inspects all fertilizer consignments before being released to the Kenyan market and this is done in two steps. First inspection is done at the point of origin before shipment where a Certificate of Conformity (COC) is issued (Annex 1023.1.5(e)). The next step in Inspection is done when vessels carrying the fertilizer arrive at the port where samples are drawn and analyzed before discharge.

2695) NCPB was instructed by the ministry to collect the fertilizer from ETG warehouses in Mombasa. To ensure that good quality fertilizers were collected, NCPB hired M/S INSPECTORATE (E.A) LTD to carry out the quantity and quality checks and on this strength they issued quantity and quality certificates.

2696) Monitoring and evaluation exercise was done on the distribution of 2017/2018 subsidy fertilizer distribution and a report written. Currently the State Department do not have an impact report on the subsidy programme but have partnered with International Fertilizer Development Centre (IFDC) to carry out an impact assessment of this programme.

2697) As at 30th June 2018, a total of 2,027,120 bags had been sold to farmers leaving a balance of 676,840 bags in the subsidy system as shown in the table below.

S/No.	Institution	Quantity ordered(50kg bags)	Quantity sold to farmers (50kg bags)	Stock balance as at 30th June 2018 (50kg bags)
1.	Ministry order	932,000	695,783	236,217
2.	NCPB order	1,771,960	1,331,337	440,623
		2,703,960	2,027,120	676,840

The stock balances as at 30th June 2018 was availed for perusal by the Committee

Committee Observations and Findings

2698) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory; and
2) The matter was marked as resolved.

Committee Recommendation

2699) The Committee recommended that:

1) **The Accounting Officer MUST at all times ensure that applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **The Accounting Officer MUST at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The matter be resolved.**

1023.1.6 Unaccounted Revenue from Sale of Fertilizer

2700) The State Department for Agriculture did not prepare a statement of revenue during the year. It was indicated that the National Treasury had not appointed the accounting officer, State Department for Agriculture as a Receiver of Revenue. However, the National Cereals and Produce Board was to bank all revenue realized from sale of local blends of fertilizer that were produced by the State Department from Access to Government Procurement Opportunities firms in Kenya Commercial Bank for onward Transmission to the State Department at the Central Bank of Kenya.

2701) The State Department indicated that NCPB had an accumulated sales receipt of KSh.1, 137,911,500 as at 30 June 2018, while NCPB reported revenue amounting to over KSh.1, 400,000,000. It was indicated that the amount was used to offset debts owed to the NCPB as a State Department had failed to settle its obligations related to subsidy claims by NCPB.

2702) Further, the State Department indicated that as at 30 June 2018, it had 236,217 bags of various types of fertilizer outstanding in the depots of NCPB. This implies that at least 2,303,235 bags of various types of fertilizer had been sold, which would mean that NCPB had collected over KSh.2.3 billion on sale of the fertilizer. Under the circumstances, the total revenue collected could not be confirmed.

Submission by the Accounting Officer

2703) The Accounting Officer admitted that the state Department did not prepare revenue statement for the year ended 30th June 2018 as the Accounting Officer in the State Department for Crop Development had not been appointed as the receiver of Revenue.

2704) However, upon appointment in the Financial Year 2018/2019 the accounting officer has demanded that NCBP surrenders all revenues collected for the three years. So far, a total of KSh. 456,000,000 has been received and banked in the ex-chequer account.

Committee Observation and Findings

2705) The Committee observed and found that:

1) Out KSh.2.3 billion, a total of KSh.456,000,000 was received by the State department and banked in the ex-chequer account;
2) The remaining balance is held in one of the fertilizer accounts at Kenya Commercial Bank, however the Bank has since frozen the funds over debt owed by NCPB to the bank;
3) The Accounting Officer was not able to produce bank statements or any official documents from the bank confirming the exact amount of money held in the above-mentioned account; and,
4) The matter therefore remained unresolved.

Committee Recommendations

2706) The Committee recommended that:

1) **The Accounting Officer should ensure that any Public Officer, other than a receiver or collector of revenue for the national government, who collects revenue for that national government, delivers the revenue to a receiver or collector of revenue for the national government within three days after receiving it, pursuant to Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The Accounting Officer should ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015**
3) **The Cabinet Secretary for the National Treasury MUST at all times ensure that a receiver of revenue for the national government provides monthly statements to the National Treasury and the Commission on Revenue Allocation pursuant to section 76 (3) of the Public Finance Management Act 2012.**
4) **The Committee should revisit the matter during its examination of the 2018-**

2019 Auditor-General's report.

1023.1.7 Formal Agreement Between the State Department and the National Cereals and Produce Board on Distribution of Fertilizer

2707) The assignment contract provides that the State Department is to refund the Cereals Board and Produce Board the subsidy on imported fertilizer. The National Cereals and Produce Board sold fertilizers to farmers at subsidized prices of KSh.1,500 for a 50kg bag of all planting fertilizer (DAP, NPK 23:23:0, NPK 17:17:17) blends and all top dressing fertilizer (CAN, UREA): and KSh.1,300 for a 50Kg bag of Sulphate of Ammonia (SA). Although the imported fertilizer for the short rains as well as the blended fertilizers that the State Department procured from AGPO firms were delivered directly to the depots of National Cereals and Produce Board located in various parts of the Country, it was noted that no agreement was signed between the State Department and National Cereals and Produce Board about the handling of the fertilizer stocks as well as the sales proceeds. No evidence was provided to show that the State Department carried out any reconciliations for sales made and quantity delivered by, or outstanding from each of the suppliers as at 30 June 2018. However, it was indicated that as at 30 June 2018, there were 236,217 bags of various types of fertilizer in various depots.

Submission by the Accounting Officer

2708) The Accounting Officer submitted that since the inception of the fertilizer subsidy programme, NCPB used to distribute fertilizers through instructions given in a form of letters and distribution guidelines normally issued at beginning of the planting season. As from 2018/2019 the Ministry and NCPB have been signing Agency Agreements which guides government subsidized fertilizer distribution. It was true as at the time of audit, reconciliation was not availed for audit verification. The reconciliation report had not been availed to the auditors for verification.

Committee Observation and Findings

2709) The Committee observed and found that:

1) o Out of KSh.2.3 billion, a total of KSh.456,000,000 was received by the State department and banked in the ex-chequer account;
2) The remaining balance is held in one of the fertilizer accounts at Kenya Commercial Bank, however the Bank has since frozen the funds over debt owed by NCPB to the bank;
3) The Accounting Officer was not able to produce bank statements or any official documents from the bank confirming the exact amount of money held in the above mentioned account; and,
4) The matter therefore remained unresolved.

Committee Recommendations

2710) The Committee recommended that:

1) **The Accounting Officer should ensure that any Public Officer, other than a receiver or collector of revenue for the national government, who collects revenue for that national government, delivers the revenue to a receiver or collector of revenue for the national government within three days after**

receiving it, pursuant to Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

2) **The Cabinet Secretary for the National Treasury MUST at all times ensure that a receiver of revenue for the national government provides monthly statements to the National Treasury and the Commission on Revenue Allocation pursuant to section 76 (3) of the Public Finance Management Act 2012.**
3) **The Committee should revisit the matter during its examination of the 2018-2019 Auditor-General's report.**

1024. Proceeds from Domestic and Foreign Grants

2711) The statement of receipts and payments reflects an amount of KSh.246,998,224 under proceeds from domestic and foreign grants for the year ended 30 June 2018. As disclosed in Note 1 to the financial statements, the amount relates to grants received from both bilateral donors and multilateral donors for various projects in the Country. However, a review of financial statements of Kenya Cereals Enhancement Project showed an amount of KSh.657,772,072, as having been received as grants from the donors. No explanation or reconciliations were provided for variance of KSh.410,776,848.

Submission by the Accounting Officer

2712) The Accounting Officer submitted that Under KCEP KSh.657,772,072 includes exchequer

worth KSh.477,130,426 and direct payment worth KSh.180,641,294. Under Headquarters Financial Statement the KSh.246,998,224 comprised of the following programmes.

STATE DEPARTMENT OF AGRICULTURE			**KCEP**
	DIRECT PAYMENTS/EXPENDITURE	**GRANTS RECEIVED**	
JICA-SHEP PLUS	**45,175,304.00**	**EXCHEQUER**	**63,074,850.0**
SUGAR REFORMS	**77,548,274.00**	**EXCHEQUER**	**315,426,030.0**
KCEP	**124,274,646.00**	**EXCHEQUER**	**38,595,650.0**
		EXCHEQUER	**60,033,896.0**
		DIRECT PAYMENTS	**56,367,000.0**
		DIRECT PAYMENTS	**124,274,646.0**
TOTAL	**246,998,224.00**	**TOTAL**	**657,772,072.0**
THE DIFFERENCE IS CAUSED BY			
	KCEP		
GRANTS REVEIVED			
EXCHEQUER	**63,074,850.00**		
EXCHEQUER	**315,426,030.00**		
EXCHEQUER	**38,595,650.00**		

EXCHEQUER	**60,033,896.00**		
DIRECT PAYMENTS	**56,367,000.00**		
STATE DEPARTMENT OF AGRICULTURE			
JICA-SHEP PLUS	**(45,175,304.00)**		
SUGAR REFORMS	**(77,548,274.00)**		
DIFFERENCE	**410,773,848.00**		

Committee Observation and Findings

2713) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to proceeds from domestic and foreign grants was satisfactory; and
2) The Committee however marked the matter as resolved.

Committee Recommendations

2714) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The Accounting Officer must ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and section 9 (1) (e) of the Public Audit Act, 2015**
3) **The Accounting Officer should ensure 100% compliance with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

1025. Grants and Transfers to Other Government Entities

2715) The statement of receipts and payments reflects an expenditure of KSh.4,603,016,987 under grants and transfers to other government entities for the year ended 30 June 2018. However, this figure differs with the supporting documentation that reflects an amount KSh.4,641,464,175 resulting in an unreconciled and unexplained difference of KSh.38,447,188.

2716) In addition, as disclosed in Note 8 to the financial statements, the expenditure of KSh.4,603,016,987 was net of a credit amount of KSh.4,483,585 indicated to have been received from Small Scale Irrigation and Value Addition Project (SIVAP). However, the SIVAP financial statements indicates that the project received an amount of KSh.36,437,100 from the State Department as proceeds from domestic and foreign grants. Consequently, the credit of KSh.4,483,585 said to have been received from SIVAP could not be confirmed.

2717) The expenditure of KSh.4,603,016,987 also includes KSh.1,100,000,000 relating to Headquarters Administrative Services and an amount of KSh.2,497,500,955 indicated as

Agriculture. The amount indicated as headquarters administrative services relates to amounts disbursed to three sugar companies namely; Mumias - KSh.500,000,000, Chemilil- KSh.300,000,000 and Nzoia - KSh.300,000,000, respectively. Further, the amount of KSh.2,497,500,955 described as Agriculture refers to transfers to Agriculture Food Authority - KSh.2,423,500,960 and Pyrethrum Processing Company - KSh.73,999,995. However, records at the Pyrethrum Processing Company shows that it received KSh.99,000,000 and thus resulting in an unaccounted for difference of KSh.25,000,005.

2718) No reasons were given for failure to describe the above amounts correctly in the Notes to the financial statements. No reconciliation was also provided between the amounts indicated as disbursed by the State Department, and the amounts reflected in the respective entities financial statements. Further, the comparative figures were not given and only the total was disclosed in Note 8 to the financial statements.

2719) Consequently, the total expenditure of KSh.4,603,016,987 under grants and transfers to other government entities for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2720) The Accounting Officer submitted that it was true that the statements of receipts and payments reflect an amount of KSh.4,603,016,987.00 while the documentation to support was sh.4,641,464,175.00 resulting to a difference of KSh. 38,447,188. The reconciliation has been done and the correct documentation has been attached. Under small-scale Irrigation and Value Addition Project (SIVAP) the amount reflected KSh.4,483,585 was capital grants reflected under the Headquarters expenditure while KSh.36,437,100 reflects the actual exchequers released by the Donor (ADB). Under Pyrethrum processing company they received Sh.99,000,000 as transfer which comprised Sh.74,000,000 under recurrent vote and KSh.25,000,000 was from Development Vote totalling to 99,000,000.

Committee Observation and Findings

2721) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the grants and transfers to other government entities was satisfactory; and
2) The Committee however marked the matter as resolved.

Committee Recommendations

2722) The Committee recommended that:

1) **The Accounting Officer must ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015**
2) **The Accounting Officer should ensure 100% compliance with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The matter be resolved.**

1026. Subsidies (Government Counterpart Funds)

2723) The statement of receipts and payments reflects an amount of KSh.264,034,891 under subsidies for the year ended 30 June 2018. The amount relates to government counterpart funds disbursed to Kenya Cereal Enhancement Project, which was co-financed by both a multi-lateral development agencies and the Government of Kenya. The amount of KSh.264,034,891 under subsidies includes KSh.180,641,646 described as subsidies to financial institutions under grant Appropriation in Aid and KSh.83,393,245 described as subsidies to financial institutions under grant revenue. The amount of KSh.83,393,245 has, however, not been captured in the records of Kenya Cereal Enhancement Project.

Submission by the Accounting Officer

2724) The Accounting Officer submitted that KCEP-CRAL Received Funds as detailed below from the State Department of Agriculture for the year 2017/2018.

1. **Receipts from Government of Kenya**

S/N.	**Quarter**	**Amount (KSh.)**
1.	Quarter 1	
2.	Quarter 2	15,250,000
3.	Quarter 3	15,250,000
4.	Quarter 4	
	Total	30,500,000

2. **Proceeds from Donor and Foreign Grants**

S/N	**Financing Source**	**Grants Received in cash**	**Grants received as direct payments**
1.	European Union (EU)	63,074,850	
2.	European Union (EU)		56,367,000
3.	European Union (EU)		124,274,646
4.	European Union (EU)	315,426,030	
5.	ASAP Grants	38,595,650	
6.	ASAP Grants	60,033,896	
	Total	477,130,426	180,641,646

2725) The Programme thus received a total of KSh.657,772,072 out of which KSh.180,641,646 was direct payment from IFAD to Equity Bank for the e-Voucher Scheme. There was also KSh.30,500,000 received as Counterpart funds (Government of Kenya Contribution). The Programme further received KSh.477,130,426 from IFAD comprising of KSh.378,500,880 from European Union Grant and KSh.98,629,546 from the ASAP Grant .

2726) From the above analysis, it is evident that the Programme received and reported a total of KSh.657,772,072 against the KSh.264,034,891 that the Auditor noted in the records of SDA. The Programme thus received and reported KSh.393,737,181 above the amount noted by the Auditor and thus there is no issue of under-reporting of funds from the State Department of Agriculture. However, it is worthy noting that there was no single remittance equivalent to KSh.83,393,245 from SDA for the FY 2017/2018.

Committee Observation and Findings

2727) The Committee observed and found that:

1) The explanation given by the Accounting Officer withn regard to subsidies (Government Counterpart Funds) was satisfactory; and
2) The Committee however marked the matter as resolved.

Committee Recommendations

2728) The Committee recommended that:

1) **The Accounting Officer must ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015**
2) **The Accounting Officer should ensure 100% compliance with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The matter be resolved.**

1027. Accounts Payables – Deposits and Retentions

2729) The statement of assets and liabilities as at 30 June 2018 reflects a balance of KSh.188,077,485 under accounts payables, which relates to deposits and retentions. It was, however, observed that deposits and retentions balances had a variance of KSh.653,365 which was not reconciled or explained. As a result, the accuracy of the deposits balance of KSh.188,077,485 could not be confirmed.

Submission by the Accounting Officer

2730) The Accounting Officer submitted that it was true the statement of Assets and liabilities as at 30th June 2018 reflected a balance of Sh.188,077,485. However, there was error in the deposits and retentions which had a variance of KSh.653,365. This has since been reconciled and the correct schedule attached.

Committee Observation and Findings

2731) The Committee observed and found that:

1) The explanation given by the Accounting Officer withn regard to accounts deposits – payables and receivables was satisfactory; and
2) The Committee however marked the matter as resolved.

Committee Recommendations

2732) The Committee recommended that:

1) **The Accounting Officer must ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e)**

(k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015

2) **The Accounting Officer should ensure 100% compliance with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The matter be resolved.**

1028. Pending Bills

2733) Disclosed under Annex 1 to the financial statements are pending bills amounting to KSh.1,013,115,765 as at 30 June 2018 which were not settled in 2017/2018 but carried forward to 2018/2019 financial year. However, supporting documents for the pending bills, including invoices, Local Purchase Orders and/or Local Service Orders as well as contract agreements were not provided to support the list of the pending bills. In addition, pending bills of undetermined value, relating to procurement and receipt of various types of fertilizer in the year under review, have not been disclosed in the Annex.

2734) Further, out of an amount of KSh.418,184,136 that was disclosed in the pending bills balance as at 30 June 2017, payments amounting to KSh.72,211,928 were made in the year 2017/2018 leaving an outstanding balance of KSh.345,972,208. The management did not explain the status of this balance of KSh.345,972,208 which was not carried forward in the list for 2017/2018.

2735) Consequently, the accuracy and validity of the disclosed pending bills balance of KSh.1,013,115,765 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2736) The Accounting Officer submitted that it was true that a list of pending bills was provided in the financial statement for the 2017/2018 FY amounting to KSh.1,013,115,765.00. Paid vouchers so far are available. However, the bulk of these pending bills were paid in block figures against available exchequer. The status of the balance of KSh.345,972,208 was verified and supported. The matter appeared before Public Accounts Committee for 2016/2017 and was resolved.

Committee Observation and Findings

2737) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
2) The Committee however marked the matter as resolved.

Committee Recommendations

2738) The Committee recommended that:

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

1029. Summary of Fixed Assets Register

2739) Annex 4 attached to the financial statements is a Summary of Fixed Assets Register with nil balances. The attached Accounting Officer of the State Department did not maintain a fixed assets register as required under regulation 143 of the Public Finance Management (National Government) Regulations, 2015. As a result, the breakdown of the assets was not disclosed in the summary of fixed assets register as required under the International Public Sector Accounting Standards (IPSAS) and as prescribed by the Public Sector Accounting Standards Board.

2740) Consequently, the existence, ownership and completeness of the non-current assets held by the State Department as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

2741) The Accounting Officer submitted that it was true that the State Department did not maintain a fixed asset register as required under regulation 143 of the Public Finance Management (National Government) Regulations, 2015. As a result, the breakdown of the asset was not disclosed in the summary of fixed asset register as required.

2742) The State Department is updating the required register .The register is made up of a list of assets from the ATDCs,Vehicles,furniture and equiment from the State Department of Crop Development and Research Headquarters.The list of the items are attached for perusal by the Committee.

Committee Observation and Findings

2743) The Committee observed and found that:

1) The explanation given by the Accounting Officer within regard to fixed assets register was satisfactory; and
2) The Committee however marked the matter as resolved.

Committee Recommendations

2744) The Committee recommended that:

1) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**
2) **The matter be resolved.**

1030. Prior Year Matters

2745) Several matters raised in the audit report for 2016/2017 have not been addressed as shown below:

1030.1 Budget Performance

2746) It was noted that several expenditure items recorded disproportionate comparative increase/decrease when compared with the previous audited financial statements.

No explanations have been provided so far for the variances.

Submission by the Accounting Officer

2747) The Accounting Officer submitted that it was true that several expenditure items in financial year 2016/2017 recorded disproportionate comparative increase/decrease when compared with the previous financial year 2015/2016. This was as a result of The National Treasury advice during the Estimate Working Group meeting to itemize projects budgets within the State Department whose expenditure item in financial year 2015/2016 were classified under transfer.

2748) However, it should be noted that expenditures were carried out within the confines of the budgetary provision and our expenditure, were contained within the approved budgetary estimates.

<u>This matter was considered by the Committee in the Report of 2016/2017</u>

1031. Procurement of Subsidized Fertilizer

2749) The statement of receipts and payments for the year ended 30 June 2017 reflected an amount of KSh.5,878,925,563 under use of goods and services, which included as disclosed under Note 7 to the financial statements an amount of KSh.4,998,996,937 described as other operating expenses. This amount included expenditure on the procurement of subsidized fertilizer.

2750) A review of the records provided for audit revealed that a company contracted to deliver 182,000 bags of various types of fertilizer each weighing 50 kilos during the short rains, at a cost of US$4,434,734 (KSh.456,777,551), did not deliver 17,060 bags costing US$441,001 (KSh.45,423,103), in the period under review. The firm was, however, paid the full amount of the contract.

<u>This matter was considered by the Committee in the Report of 2016/2017</u>

1032. Receipts

2751) The statement of receipts and payments for the year ended 30 June 2017 reflected amounts of KSh.287,284,417, KSh.145,968,360 and KSh.4,729,258 under proceeds from domestic and foreign grants; proceeds from foreign borrowings; and proceeds from sale of assets, respectively. However, these receipts had not been supported with authentic documents, including cash book entries, bank statement entries or any other verifiable documentation.

<u>This matter was considered by the Committee in the Report of 2016/2017</u>

1033. Voidable Expenditure – Procurement of Subsidized Fertilizer

2752) In the audit report for 2015/2016, it was indicated that the expenditure of KSh.5,691,502,730 shown in that year's statement of receipts and payments under use of goods and services included, as shown under Note 13 to the financial statements for that year, expenditure of KSh.5,368,529 relating to other operating expenses, out of which, payments totalling KSh.4,189,820,270 were made to National Cereals and Produce Board (NCPB) to meet expenses relating to procurement, handling, storage, transportation, commissions and other charges for subsidized fertilizer. However, included in the payments of KSh.4,189,820,270 made to NCPB was KSh.147,574,229 relating to interest on Post Import Facility which arose from a 2013/2014 contractual obligation the State Department failed to honour.

2753) The State Department in 2013/2014 had contracted a company to supply and deliver 102,550 metric tons of various types of fertilizer, at an equivalent cost of KSh.3,782,845,939. The State Department subsequently assigned the contract to National Cereals and Produce Board (NCPB), who in turn entered into a Letter of Credit (LC) arrangement with a commercial bank. Upon delivery of the fertilizer and subsequent expiry of the 180 days of the LC, NCPB failed to pay up and the bank converted the LC into a loan chargeable at 14.78% per annum.

This matter was considered by the Committee in the Report of 2016/2017

1034. Unsupported Expenditure

1034.1 Procurement of Seed Potato

2754) The State Department paid an amount of KSh.25,000,000 to a firm to import seed potato from Netherlands in the financial year 2014/2015. However, the supplier appears to have been single sourced as no evidence was provided to confirm that any competitive procurement procedure was followed as required under the then applicable Section 29 of the Public Procurement and Disposal Act, 2005. Further, no invoice, delivery note or any other documentary evidence was provided to support the payment of KSh.25,000,000 and to confirm that the seeds were indeed received.

This matter was considered by the Committee in the Report of 2016/2017

1035. Procurement of Certified Seeds, Breeding Stock and Live Animals

2755) The expenditure of KSh.700,718,840 for purchase of certified seeds, breeding stock and live animals incurred during the year 2014/2015 included an amount of KSh.300,000,000 that was not supported with payment vouchers and related documents.

This matter was considered by the Committee in the Report of 2016/2017

1036. Purchase and Transportation of Subsidized Fertilizer

2756) The State Department disbursed an amount of KSh.2,129,128,558 to National Cereals and Produce Board (NCPB) as subsidy for purchase of fertilizer to be sold to farmers in the year 2014/2015. However, apart from an invoice and a schedule raised by NCPB, no verifiable document was produced for audit to confirm the actual quantity of fertilizer bought by NCPB, the quantity sold to the farmers and purchase and selling prices. Consequently, the propriety of the expenditure of KSh.2,129,128,558 on subsidized fertilizer could not be ascertained.

This matter was considered by the Committee in the Report of 2016/2017

1037. Bulking of Traditional High Value (Orphaned) Crops

2757) In 2015/2016, it was also reported that the State Department entered into a KSh.30,095,000 Memorandum of Understanding (MOU) with Kenya Agricultural and Livestock Research Organisation (KARLO) in which KARLO was to undertake a multiplication of various traditional high value (orphaned) crops including; cassava, sweet potatoes, cow peas, sorghum, finger millet, and beans with an objective of promoting their consumption and reducing over-reliance on maize. The crops were to be distributed for cultivation in Arid and Semi-Arid Lands (ASAL) of Baringo, Makueni, Machakos, Tharaka Nithi, Kirinyaga, Kisumu, Homa Bay, Busia, Kwale and Taita Taveta Counties. Although the amount of KSh.30,095,000 was released in 2014/2015, to KARLO to undertake the project, no evidence has been produced to date to confirm that the project was carried out, completed and distribution done to the intended areas.

<u>This matter was considered by the Committee in the Report of 2016/2017</u>

1038. Purchase of Tablet Gadgets

2758) The State Department incurred an expenditure of KSh.5,584,025 to purchase 413 tablet gadgets in the financial year 2014/2015. However, no evidence has been produced to date to confirm the requisition for the tablets; whether the gadgets were delivered, received, and taken on charge in the stores; and to whom they are distributed.

<u>This matter was considered by the Committee in the Report of 2016/2017</u>

1039. Procurement of Fertilizer

2759)

(i) It was further reported in 2015/2016 that the Department advertised Tender No. MOALF/SCMD/AGRIB/12/2014-2015, for supply and delivery of 54,950 metric tons of 8 lots - equivalent to 1,042,730 (50kg) bags of fertilizer in the financial year 2014/2015. Out of the 21 firms that responded, 7 were found to be responsive and awarded contracts to supply the fertilizer at different prices per 50 Kg bag, depending on the region or point of delivery.

2760) Lot 1 was won by bidder No.4 to supply fertilizer at a price of KSh.2,655 per 50 Kg bag being the lowest evaluated bidder, at a total of KSh.265,500,000. Lot 2 was also won by bidder No. 4 at a price of KSh.2,430 per 50 Kg bag being a total price of KSh.364,500,000. Information available indicated that bidder No.4 declined to sign a contract agreement even after delivering their acceptance letter. The Ministerial Tender Committee then made a decision to disqualify the bidder and award the tender to the second lowest bidder, bidder No. 6, at total cost of KSh.320,000,000 and KSh.436,850,000 for lots 1 and 2, respectively. Further, and despite our request to the management to produce tender documents and correspondences relating to the disqualified bidder, no documents and records have been provided to date for audit verification.

2761)

(ii) In awarding the contract to the second lowest bidder without giving justifiable reasons why the lowest bidder declined to sign a contract, the State Department lost an amount of KSh.126,850,000, being the difference between the amount paid to the second lowest bidder and the amount that would have been paid to the lowest bidder, as shown below:

This matter was considered by the Committee in the Report of 2016/2017

1040. Funds Disbursed to Establish Revolving Funds

2762)

(i) The State Department had entered into two separate Memoranda of Understanding (MOUs) in 2014/2015 with Kenya Agricultural and Livestock Research Organization (KALRO) and Agricultural Development Corporation (ADC) under which the

Lot No.	Bidder No. 4	Bidder No.6	Difference
1	265,500,000.00	320,000,000.00	54,500,000.00
2	364,500,000.00	436,850,000.00	72,350,000.00
	630,000,000.00	**756,850,000.00**	**126,850,000.00**

Department was to disburse KSh.200,789,325 to the two organizations to carry out Potato Seed Multiplication (Bulking). ADC received KSh.117,500,000 to produce 30,000 (50 Kg) bags of basic seeds, 3,000,000 invitro plantlets and 3,000,000 potato mini-tubers while KALRO received KSh.27,889,325 to produce 34,000 invitro plantlets, 472,220 mini tubers, 12,400 (50 Kg) bags of basic seeds. The amounts were charged under the item of transfers to other Government Units.

2763)

The State Department also disbursed another KSh.55,400,000 to the same institutions: KSh.50,400,000 to ADC and KSh.5,000,000 to KALRO for the same purpose but charged the expenditure under the item of specialized materials and services.

2764)

(ii) The MOUs provided that once the seed bulking was completed, the seeds would be sold to farmers and the proceeds be used to create two Revolving Funds to sustain a continued increase in production of basic seeds and certified seed potato. However, despite the State Department having disbursed the total amount of KSh.200,789,325 and the seed bulking project completed, the two Revolving Funds had not been established as at the end of the financial year 2017/2018.

This matter was considered by the Committee in the Report of 2016/2017

STRATEGIC GRAIN RESERVE FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

1044. Statement of Comparison of Budget and Actual Amounts

2765) The Funds management did not prepare and submit for audit the statement of comparison of budget and actual amounts of the year ended 30th June 2018.However, records available indicates that the Fund had budgeted to procure 2 million bags of local maize and produced 3.7 million bags of 90kg at a cost of KSh 11,282,483,469.

2766) A review of available records also indicate that the Fund had budgeted for 50kg jute bags at a cost of KSh 408 million, management fees to NCPB at KSh 700 million, Board visits at KSh 5 million and annual stock takes at KSh 4 million. However, it is not clear how the budgeted amounts were arrived at as no basis was provided. Further, even for the budgeted items, no record was provided to indicate how the expenditure were incurred.

Submission by the Accounting Officer

2767) The Accounting Officer admitted that the Fund didn't prepare a statement of comparison of Budget vs Actual amount spent for the year ended 30th June 2018. He reported that the statement has now been prepared and is now available for audit verification. The initial budget was to procure 2 million bags at a cost of KSh 6 billion. However, through presidential directive dated 14th February 2018. The Ministry was directed to absorb all the maize offered for sale by farmers for the SFR.

2768) The budget of KSh 408 million for purchase of jute bags KSh 700 million management fee to NCPB and KSh 5 million and KSh 4 million for board visits and annual stock take respectively were all approved by the board in respect of the planned procurement of maize from farmers.

2769) For the expenditures of budgeted items, as at the time of audit the payment vouchers for these expenditures were not available, however, they are now available for audit verification.

Committee Observations and Findings

2770) The Committee observed and found that:

1) The Accounting Officer submitted Court pleadings to ascertain that the matter was before the Court; and
2) The matter therefore remained unresolved.

Committee Recommendations

2771) The Committee recommended that:

1) **Since the matter was active Court, any Committee's pronouncement on the matter might could prejudice its fair determination and therefore the the matter be stayed under the *sub judice* rule.**

1045. Revenue from the Exchange Transactions

2772) The statement of financial performance for the year ended 30th June 2018 reflects an amount of KSh 20,353,837,593 under revenue from exchange transactions. This revenue relates to sale of maize by the Fund during the year. A review of available records indicates that the fund sold 8,832,452 bags of 90kg of maize in the year under review. It was noted that the price at which the maize was sold varied from one depot to another and from one grade to the other. No reason was provided for the varied prices, which ranged from KSh 1,245 to KSh 2,300. It was not clear how the buyers of the maize were identified.

2773) The audit also revealed that no local was sold, and all sales in the year were related to sale of imported maize. Records available indicate that the Fund bought Kch 15,597,871 bags of imported maize and the closing stock amounted to 287,431 bags only as at 30th June 2018.

It is not clear whether the remaining bags were sold thereafter as they could not be accounted for as at the time of the audit.

2774) Consequently, the completeness and accuracy of the sales figure provided could not be ascertained.

Submission by the Accounting Officer

2775) The SFR board through NCPB depots sold 8,832,452 bags of 90 Kg of imported maize valued at KSh.20,353,837,593 as observed by the auditors. The selling price was KSh.1,245 for a 50 Kg bag and KSh.2,300 for a 90 Kg bag, hence there were no variation in pricing.

Committee Observations and Findings

2776) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The matter therefore marked as resolved.

Committee Recommendations

2777) The Committee recommended that:

The matter be resolved.

1046. Cost of Sales

1046.1 Overstated Cost of Imported Maize

2778) The statement of financial performance reflects an amount of KSh 37,222,645,795 under cost of sales. This amount, as disclosed in Note 6 to the financial statements relates to the cost of stock of maize sold in the year. As disclosed in the Note 6 to the financial statements, the Fund imported maize at a total cost of KSh 34,822,028,282.This amount, however, differs with the amount of KSh.31,288,225,350 reflected in the records maintained by the National Cereals and Produce Board (NCPB), by KSh 3,533,802,932. No reconciliation or explanation was provided for the variance.

2779) In addition, Note 6 reflects an amount of KSh 3,061,708,813 as opening stock of maize in the year ended 30 June 2018. However, records available shows that only imported maize was sold and the closing stock does not comprise any of the old stock brought forward in the year. Further, payment vouchers totaling KSh 9,521,226,296 relating to procurement of imported maize were not provided for audit scrutiny.

2780) Under the circumstances, the completeness and accuracy of the cost of sales figure of KSh.37,222,645,795 could not be confirmed.

Submission by the Accounting Officer

2781) NCPB commenced uptake of imported maize on behalf of government on 19th May 2017. By the close of 2016/17 FY NCPB had received 1,842,900 x 90 Kg bags valued at KSh. 6.59 billion.

2782) During 2017/18 FY up to the closure of the programme on 31st December 2017 NCPB received addition 8,693,257 x 90 Kg bags valued at KSh.31.29 billion. Cumulatively NCPB received 10,536,157 x 90 Kg bags valued at KSh.37.88 billion over the period of two financial years. The quantity of 8,693,257 reflected in 2017/18 FY are the transaction for that particular year as shown below;

	Description	**Quantity**	**Unit Price**	**Value**
A	**2016/17**			
	1061 - Imported maize bulk	683,796	2,000.00	1,367,592,000
	1062 - Imported maize x 50kgs	2,083,024	2,000.00	4,166,048,000
	1063 - Imported maize x 100kgs	275,200	3,850.00	1,059,520,000
	GRAND TOTAL X 50 KGS	3,042,020		6,593,160,000
	GRAND TOTAL X 90 KGS	1,842,900		6,593,160,000
B	2017/18			
	1061 - Imported maize bulk	7,017,562	2,000.00	14,035,124,000
	1062 - Imported maize x 50kgs	8,530,318	2,000.00	17,060,636,000
	1063 - Imported maize x 100kgs	49,991	3,850.00	192,465,350
	GRAND TOTAL X 50 KGS	15,597,871		31,288,225,350
	GRAND TOTAL X 90 KGS	8,693,257		31,288,225,350
C	Totals from 19.05.17 to 31.12.17			
	1061 - Imported maize bulk	7,701,358	2,000.00	15,402,716,000
	1062 - Imported maize x 50kgs		2,000.00	

		10,613,342		21,226,684,000
	1063 - Imported maize x 100kgs	325,191	3,850.00	1,251,985,350
	GRAND TOTAL X 50 KGS	**15,597,871**		**37,881,385,350**
	GRAND TOTAL X 90 KGS	**10,536,157**		**37,881,385,350**

2783) In total NCPB received 10,536,157 x 90 Kg bags with an estimated value of KSh. 37,881,385,350. Under the programme, NCPB did not participate in procurement or contracting suppliers but only played the role of receiving maize procured by Government and distributing to Millers as directed.

2784) During the year NCPB received maize packed in various weights. Maize received through the Port of Mombasa in bulk form was accounted in 50 Kg bag being the allowed weight by International Labour regulations. Maize received from Ethiopia through Moyale was packed in 100Kg bags Ethiopian standard weight. For comparison purposes all maize packed in deferent weights are translated to one unit of measure for purposes of accounting

Local Purchases

2785) Local maize purchased during the year under review comprised of various weight categories totaling to 6,521,481 bags and when converted to weight of 90kg bags, its gives 3,625,667 as indicated below.

Product Code	**Description**	**Qty**	**Qty in Std Wgt) x90kgs**
1055	Local W/maize Grade II X90kgs	5,899	5,899
1060	W/maize x 50kgs(Bulk)	4,480,705	2,489,281
1065	W/maize Grade II X 50KGS(Jute)	1,954,846	1,086,026
1066	W/maize Grade II X 50KGS(pp)	80,031	44,462
Total		**6,521,481**	**3,625,667**

(b) Imported maize:

2786) The total maize imported during the year was 8,693,257 bags 90kgs equivalent to 15,597,871 x 50 Kg bags as shown below.

Product Code	Description	Imported Quantity in various weights	Qty in Std Wgt) x90kgs
1061	Imported maize Bulk	7,017,562	3,898,646
1062	Imported maize x 50kgs	8,530,318	4,739,066
1063	Imported maize x100 kgs	49,991	55,546
Total		**15,597,871**	**8,693,257**

Sales and closing stocks

2787) During the year, NCPB sold 8,747,278 x 90Kg bags (equivalent to 15,745,100 x 50kgs bags) and not 8,832,452 x 90 Kg bags indicated as shown below;

Product Code	Description	Qty in various Weights	Qty in Std Wgt) x90kgs	Qty in Std Wgt) x50kgs
1061	Imported maize Bulk	7,660,985	4,256,103	7,660,985
1062	Imported maize x 50kgs	7,917,405	4,398,558	7,917,405
1063	Imported maize x100 kgs	83,355	92,617	166,710
Total		**15,661,745**	**8,747,278**	**15,745,100**

All the sales were from imported maize as summarized in the below stock flow

	Description	Imported maize	Local maize	Total Maize	Total Maize
		x 90 Kg Bags	x 90 Kg Bags	x 90 Kg Bags	x 50 Kg Bags
		2017/2018	2017/2018	2017/2018	2017/2018
1	Opening balance as at 1st July 2016	603,529	-	603,529	1,086,352
2	Purchases in the year	8,693,257	3,625,667	12,318,924	22,174,063
3	Total stock available	9,296,786	3,625,667	12,922,453	23,260,415
4	Sales during the year	8,747,278	0	8,747,278	15,745,100
5	Closing balance x 90 Kg Bags	549,508	3,625,667	4,175,175	7,515,315

1046.2 Missing Payment Vouchers for Local Suppliers of Maize

2788) The cost of sales figure of KSh 37,222,645,795 and as disclosed in Note 6 (i) to the financial statements includes an amount of KSh 11,282,483,469 incurred on procurement of local maize. However, the Fund management did not provide for audit verification payment vouchers amounting KSh 1,660,487,233, in respect of the payments made to local farmers for supply of maize to various NCPB depots during the year under review. Although the management explained that these vouchers had been taken by the Ethics and Anti-Corruption Commission for investigations, it was not possible to confirm the propriety of the expenditure as tabulated below:

Name of Depot	Amount KSh
Eldoret	1,264,342,807
Kisumu	51,276,040
Kitale	81,097,976
Bungoma	263,770,410
Total	**1,660,487,233**

2789) Consequently, the completeness and accuracy of the cost of sales of KSh.37,222,645,795 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2790) The Accounting Officer submitted that the said vouchers were not available at the time of Audit as they were with the Ethics and anti-corruption Commission for investigation. The payment vouchers will be availed to the auditors as soon as they receive them.

Plenary

2791) After the question and answer session the following came out

1. That the paragraphs relate to paragraph 410 (iii) in the Auditors report on Financial statement of State Department for Agriculture for Financial Year 2016/17

2. In that Financial Year, the State Department could not account for Expenditure of KSh.4, 494, 724, 000 out of KSh.11, 672, 958,682 relating to importation of maize.

Committee Observations and Findings in regard to paragraph 1046.1 & 2

2792) The Committee observed and found that:

1) The State Department Spent KSh.48, 895,604,477on procurement of maize in the last two financial Years; namely KSh.11, 672, 958,682 in Financial year 2016/17 and KSh.37, 222, 645, 795 in Financial year 2017/18.
2) KSh 8, 028,526,932 was not accounted for in the last two financial Years in regard to the imported maize; namely KSh.4, 494, 724, 000 in financial year 2016/17 and KSh.3,533,802,932 in financial year 2017/18
3) The matter therefore remains unresolved

Other Submissions in regard to Importation of Maize

Principal Secretary State Department of Agriculture

1. The state Department imported maize worth KSh. 6,593,160,000 in the Financial Year 2016/17 and KSh. 31, 288,225,350 in the Financial Year 2017/18 resulting to a total of KSh.37,222,645,795

2. Out of KSh 4,494,724,000 raised in the Audit report for financial year 2016/17 the State Department accounted for KSh2,883,120,000 leaving a balance of KSh. 1,612,586,000

3. The State Department having gone through the Bank Statements, Cash Books and IFIMIS system, observed that there were no payments made in regard to KSh. 1,612,586,000 highlighted by the Audit Report.

Findings

2793) The Committee made the following findings:

1. The figures of KSh.4,494,724,000 that included KSh. 1,612,586,000 was picked from the Financial Statement of the State Depart for Financial Year 2016/17; and
2. The alluded Financial Statement has not been revised and therefore the figure of KSh.1,612,586,000 still stands and needs to be explained;

Evidence from Hon Dr. Noah Wekesa

2794) He submitted as follows:

1. That he is the Chairperson Strategic Food Reserve Trust Fund
2. The board routinely makes recommendations that are implemented by the Principal Secretary/ administrator of the Fund
3. As currently Constituted, the board faces challenges in executing its mandate as it is not a body corporate rather than a committee of Government. For instance, it is difficult for the board to access fundamental records such as a bank statements.

4. He commended the Committee's work

Findings

1) The Committee found the submission made by the Chairperson Strategic Food Reserve Trust Fund as valid and useful.

Committee Recommendation

The Committee should revisit the matter during its examination of the 2018-2019 Auditor-General's report.

1046.3 Procurement of Maize

1046.3.1 Budget

2795) During the year under review, the Fund had budgeted to purchase 2 million bags of local maize at a cost of 6 billion shillings. However, the Fund procured 3.7 million bags of 90kgs local maize at a cost of KSh.11,282,483,469, which resulted in a budget overrun by KSh.5.1 billion. In addition, the Fund procured maize from maize importers valued at KSh.34,822,028,282 without any prior budget provision for the same.

Submission by the Accounting Officer

2796) The Accounting Officer submitted that in the 2017/18 crop season, there was a bumper harvest and hence a directive was issued to the ministry on February 2018 to absorb all the available maize in the local market. The initial budget as reflected in the printed estimates was KSh 1.294 billion with additional budget of KSh 6.7 billion and KSh. 2 billion during Supplementary 1 and 2, respectively. This increased the total budget to KSh 9.994 billion.

2797) On the importation of maize at the begining of the year under review, there was shortage of maize supply in the country due to the drought of 2016/17. This occassioned high maize flour prices that had reached KSh 150 per 2kg packet. The drought was declared a National Disaster and the government initiated the maize subsidy programme in May 2017 that was meant to cushion the consumers against the escalating flour prices. Due to lack of maize in the country, maize was to be imported from any available source. An inter-ministerial committee headed by the Head of Public Service directed the ministry to import maize to sustain the maize supply in the country and stabilize the flour prices. The subsidy programe was meant to reduce the flour prices from KSh150 to KSh90 per 2kg packet (Vol.2 Annex 1046.3.1). The programme ended in 31 December 2017 when the local maize supply stabilized.

2798) The initial capital of KSh 5.5 billion for the maize subsidy programme comprised of:

i. 2.2 billion from sales of maize held in NCPB account
ii. 1.3 billion for the FY 2017/18 allocated by the National Treasury
iii. 2 billion was to be realized after sales of existing stocks at NCPB depots

2799) It should be noted that during the year under review, the government sold 8,832,452 90kg bags of the imported maize at a total of KSh 20,353,837,593. All these proceeds were ploughed back to sustain the subsidy programme. It should be further noted that the maize was being sold at a subsidized price of KSh2,300 per 90kg bag hence the subsidy component was KSh 1,300.

Committee Observations and Findings

2800) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1046.3.2 Vetting of Farmers

2801) In eleven sampled depots, the audit revealed that the forms used for vetting of farmers were similar. It was further observed that some of the forms had preprinted serial numbers while others were inserted by hand. In other cases, some forms required the signature of the name of the group, agricultural officer and the assistant chief while others required the signature of the assistant chief, ward administrator and agricultural officer. In addition, the forms had no section for evidence of size of land owned or leased by the farmers to show how much each farmer was capable of producing.

Submission by the Accounting Officer

2802) The Accounting Officer submitted that during the time of audit, there were vetting forms but Counties implemented them differently. The vetting differed from one region to another hence different regions had different signatories in those forms. However, the government recognised the weaknesses in this disjointed form of vetting and during the procurement of 2018/2019 maize purchase, a standard vetting form was introduced which is now being used in the various regions.

Committee Observations and Findings

2803) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

2804) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1046.3.3 Procurement of Maize without Required Approval Documents

2805) Out of the total maize procured of KSh.11,282,483,469 from local farmers, it was observed that maize valued at KSh.288,692,553 was purchased by the Fund before the farmers had obtained all the required approval documents. Some of the forms were not approved by the assistant chief, chief, ward administrator or agricultural officer, contrary to the guidelines issued by the NCPB Managing Director.

Submission by the Accounting Officer

2806) The Accounting Officer submitted that approvals were required for all procurements of maize. These requirements were set to ensure that only genuine farmers were identified to supply the maize. Farmers who did not meet the set criteria have their payments pending until cleared by the EACC.

2807) Further, a few depot Managers did not follow the guidelines issued by NCPB head Office. These managers were interdicted and their cases are in court**.**

Committee Observations and Findings

2808) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

2809) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
3) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1046.3.4 Farmers who Supplied Over 10,000 Bags of Maize

2810) Examination of records maintained by NCPB in the eleven sampled depots, and a review of guidelines issued by the Ministry referenced MOA/LCD/9/12/8018 and dated 1st October 2017 on purchase of maize, did not reveal the maximum bags of maize to be purchased from an individual farmer. There was no requirement for the farmers to provide title deeds, lease agreement or size of the land under cultivation. Although there were no set maximum limits of maize delivery, the practicability of delivering 10,000 bags and above from a single farmer could not be verified given the average production per acre. A sample of farmers provided over 10,000 bags of 90kgs bags each. Therefore, it was not possible to ascertain if these farmers owned land that could be able to produce more than 10,000 bags of maize.

Submission by the Accounting Officer

2811) The Accounting Officer submitted that by the time the Fund was procuring the said maize, there were no requisite legal requirement(s) on the maximum number of bags that a farmer was supposed to supply. Therefore, the Fund couldn't prevent any farmer from supplying over 10,000 bags of maize or any amount. The intention of the Fund (then and now) is to procure stocks of maize that meet the requisite requirements set out by the Board and is within the approved budget. Therefore, delivery of 10,000 bags was considered appropriate as long as the farmers were duly vetted by the committee.

Committee Observations and Findings

2812) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The matter therefore marked as resolved.

Committee Recommendations

2813) The Committee recommended that:

The matter be resolved.

1046.3.5 Out-sourcing of Procurement Function

2814) During the year under review, the Fund procured imported maize worth KSh.34,822,028,282 from various importers. However, the function of receiving and inspection of the maize was done by the NCPB. There was no evidence that the Accounting Officer responsible for the Fund and NCPB entered into an agreement on the performance of its procurement function of receipt, inspection, and recording to ensure the right quality and quantity were received, and to ensure adherence to Public Procurement and Asset Disposal Act, 2015 on receipt and inspection of procured maize. This resulted in payment of maize suppliers without the certificate of inspection and acceptance certificate or report.

2815) In the absence of any legal agreement, it was not possible to confirm that the quality and quantity of maize received by NCPB was as per the specification of the Ministry.

Submission by the Accounting Officer

2816) The Accounting Officer submitted that it was true there was no agreement between the Accounting Officer and NCPB on inspection of the imported maize as the role of Inspection of the maize was done by KEBS, KEPHIS and Public Health before discharge to the Grain bulk Silos. After inspecting the maize, they stamped on the entries, these stamps mean they have been cleared for discharge and they meet quality standards of this country.The NCPB therefore did not inspect goods as indicated in the audit report. The role of NCPB was to receive and distribute to the allocated millers. Therefore there was no need for the Ministry to enter into the agreement with NCPB on inspection of the maize since this role was being played by the Multi-Agency Team.

2817) In addition among the mandatory documents required in this country is the inspection certificate for all imported commodities (Vol 3 Annex 1046.3.5 inspection certificate).

Committee Observations and Findings

2818) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The matter therefore marked as resolved.

Committee Recommendations

2819) The Committee recommended that:

The matter be resolved.

1047. Other Expenditure

2820) The statement of financial performance reflects an amount of KSh.6,780,698,646 under other expenditure and as disclosed in Note 7 to the financial statements, the expenditure relates to transport and handling costs, storage and fumigation, sales commissions, drying charges, purchase commissions, gunny bags and import costs. Included in the other expenditure figure of KSh.6,780,698,646, is an amount of KSh.3,904,916,013 incurred on storage and fumigation costs, which was an increase of 25 times over the previous year amount of KSh.153,531,615. No explanation was provided for such a huge increase in the expenditure over the previous year.

2821) In addition, included in the expenditure is an amount of KSh.436,244,000 paid to both staff of the parent Ministry and suppliers that was not supported with documentary evidence. Further, the cash book reflects payments for traveling and accommodation, Board expenses, repair of motor vehicles and payment to the taskforce members all totaling KSh.41,831,286 which have not been included in these financial statements. No explanation was provided for the exclusion of these payments in the financial statements

2822) Consequently, the completeness and accuracy of the KSh.6,780,698,646 expenditure for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

2823) The Accounting Officer admitted that the expenditure on storage and fumigation increased over the previous year to KSh.3,904,916,013. This was attributed to huge increase of maize stocks held by NCPB procured from local farmers of 3.7 million bags of 90kgs and imported maize 10,536,157bags of 90kg. The storage and fumigation costs are calculated monthly at the rate of KSh.2.7 and KSh.2.8 respectively per 50kg bag per month as per the contract document.

2824) The Accounting Officer further admitted that expenditure documents pertaining to the expenditure of KSh.436,244,000 were not availed at the time of audit. The vouchers are with the EACC and will be availed to the Auditors once they are available. As pertains to the expenditure of KSh.41,831,286 which had not been included in the Financial Statements, prior year adjustments has been made in the revised Financial Statement for 2018/2019 Financial Year.

Committee Observations and Findings

2825) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The matter therefore marked as resolved.

Committee Recommendations

2826) The Committee recommended that:

The matter be resolved.

1048. Cash and Cash Equivalents

2827) The statement of financial position as at 30 June 2018 and as disclosed in Note 8 to the financial statements reflects a balance of KSh.3,901,065 under cash and cash equivalents. However, a review of the expenditure records revealed payments amounting to KSh.1,346,079,257 that had not been posted in the cash book. In addition, there were no bank reconciliations during the year under review. Further, as was reported in the previous year, the opening cash balances had been overstated with an amount of KSh.95,881,170.

2828) Consequently, the completeness and accuracy of cash and cash equivalents balance of KSh.3,901,065 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2829) The Accounting Officer admitted that it was true that cash and cash equivalent statement of Financial Year ending 30th June, 2018 reflects a figure of KSh. 3,901,065. The figure of KSh.3,901,065 in the cash book is tallying with the figure in the bank statement. We wish to state that payment vouchers amounting to KSh.1,346,079,257 previously not posted in the cash book were reflected in the IFMIS system but there were no actual payments to the bank. As at the time of audit, they had not been voided in the system. The same has now been voided in the system.

Committee Observations and Findings

2830) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

2831) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for**

the above-stated breaches.

2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1049. Inventories

2832) The statement of financial position reflects a balance KSh.12,643,574,769 under inventories and as disclosed under Note 9 to the financial statements the inventories comprise of maize stock as well as powdered milk. However, the following unsatisfactory matters were observed:

1049.1 Condemned Maize

2833) Disclosed in Note 6 to the financial statements is an amount of KSh 11,282,483,469 under closing stock of local maize. However, this includes maize valued at KSh 342,482,895 stored in various NCPB depots which was found to contain high level of aflatoxin by the Ministry of Health and is therefore not fit for human consumption.

2834) In addition, the opening stock of KSh 3,061,708,813 has not been accounted for in these financial statements. It is not clear how the amount was written off from the records of the Fund.

Submission by the Accounting Officer

2835) The Accounting Officer admitted that as indicated in the audit report, maize valued at KSh 342,482,895 had been reported to contain high level of aflotoxin by the Ministry of Health. This maize was in various depots as indicated in the table below.

NCPB Depot	**Quantity in Bags (90 Kgs)**	**Value KSh.**
Machakos	10,710	20,809,530
Nairobi	5,427	10,544,661
Meru	14,460	28,095,780
Isiolo	11,663	22,661,209
Migori	1,504	2,922,272
Nakuru	54,697	106,081,971
Lugari	26,264	51,030,952
Kitale	51,640	100,336,520
Total	176,265	342,482,895

2836) The maize in Kitale has since been cleared after joint sampling and quality analysis by a team comprising NCPB and Public Health and was released for human consumption on 3rd May 2019 leaving a balance of 124,625 x 50kg bags Vol.3 Annex 1049.1.

2837) The same was confirmed by an Inter-ministerial Committee on food safety and standards. The team is working on the most suitable method of disposal of the above contaminated maize. The opening stock of KSh.3,061,708,813 was included in the closing stock of KSh 11,943,574,769 for the year ended 30 June 2018.

Committee Observations and Findings

2838) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

2839) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1049.2 Un Accounted Bags of Maize

2840) The statement of financial positions inventories figure of KSh 12,643,574,769 includes and as disclosed in Note 6 to the financial statements, 3,913,098 bags of maize comprising of 287,431 bags and 3,625,667 bags of imported maize and local maize, respectively. However, this differs with the store records maintained by NCPB, which shows 6,521,481 bags of maize as at year end.

2841) The figure of 3,913,098 bags of maize also differs with the record of maize procured during the year, which indicated that none of the locally procured maize was sold but out of the imported bags of maize, which totaled, 15,597,871 bags, only 8,832,452 bags were sold, leaving a balance of 6,765,419 bags unsold. In addition, Note 6 to the financial statements shows that only 287,431 bags of the imported maize remained unsold, leaving a balance of 6,477,988 unaccounted for. Further, the stores records provided by the NCPB shows that the Board had an opening stock of 1,358,678 bags and procured 22,174,062 bags, then it sold 15,898,455 bags leaving a closing stock of 6,521,481 bags of maize. These figures were not reconciled with the figure of sales and closing stock.

2842) Under the circumstances, the accuracy, completeness and existence of the stock of maize balance of KSh 11,943,574,769 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2843) The Accounting Officer submitted that during the year NCPB received maize packed in various weights. Maize received through the Port of Mombasa in bulk form was accounted in 50 Kg bag being the allowed weight by International Labour regulations. Maize received from Ethiopia through Moyale was packed in 100Kg bags Ethiopian standard weight. For comparison purposes all maize packed in different weights are translated to one unit of measure for purposes of accounting.

Local Maize

2844) Local maize purchased during the year under review comprised of various weight categories totaling to 6,521,481 bags and when converted to weight of 90kg bags, its gives 3,625,667 as indicated below:

Local Maize

Product Code	Description	Qty	Qty in Std Wgt) x90kgs
1055	Local W/maize Grade II X90kgs	5,899	5,899
1060	W/maize x 50kgs(Bulk)	4,480,705	2,489,281
1065	W/maize Grade II X 50KGS(Jute)	1,954,846	1,086,026
1066	W/maize Grade II X 50KGS(pp)	80,031	44,462
Total		6,521,481	3,625,667

2845) The difference in the stocks of maize is because in the financial statements, the stocks are reflected in 90 kg bags packaging while the same stock is reflected in the records of NCPB in various packaging as indicated above.

(b) Imported maize:

2846) The total maize imported during the year was 8,693,257 bags 90kgs equivalent to 15,597,871 x 50 Kg bags as shown below.

Imported maize

Product Code	Description	Imported Quantity in various weights	Qty in Std Wgt) x90kgs
1061	Imported maize Bulk	7,017,562	3,898,646
1062	Imported maize x 50kgs	8,530,318	4,739,066
1063	Imported maize x100 kgs	49,991	55,546
Total		15,597,871	8,693,257

2847) The difference of 6,477,988 bags is because NCPB stock reporting indicate 50kg packaging while the financial statements use the 90 kg packaging for stock reporting purposes, therefore there is no difference in the two sets of records in the value of stocks.

Sales and closing stocks

2848) During the year, NCPB sold 8,747,278 x 90Kg bags (equivalent to 15,745,100 x 50kgs bags) and not 8,832,452 x 90 Kg bags indicated as shown below;

Sales and closing stocks

Product Code	Description	Qty in various Weights	Qty in Std Wgt) x90kgs	Qty in Std Wgt) x50kgs
1061	Imported maize Bulk	7,660,985	4,256,103	7,660,985
1062	Imported maize x 50kgs	7,917,405	4,398,558	7,917,405
1063	Imported maize x100 kgs	83,355	92,617	166,710
Total		**15,661,745**	**8,747,278**	**15,745,100**

All the sales were from imported maize as summarized in the below stock flow

	Description	Imported maize	Local maize	Total Maize	Total Maize
		x 90 Kg Bags	x 90 Kg Bags	x 90 Kg Bags	x 50 Kg Bags
		2017/2018	2017/2018	2017/2018	2017/2018
1	Opening balance as at 1st July 2016	603,529	-	603,529	1,086,352
2	Purchases in the year	8,693,257 Table II	3,625,667 Table I	12,318,924	22,174,063
3	Total stock available	9,296,786	3,625,667	12,922,453	23,260,415
4	Sales during the year	8,747,278	0	8,747,278	15,745,100
5	Closing balance x 90 Kg Bags	549,508	3,625,667	4,175,175	7,515,315

2849) The reported differences in the sales and stocks levels indicated in the audit report between the two sets of records is because of the mode of reporting, whereas the NCPB reports in 50kg packaging the statements are reflecting in 90 kg packaging. We will work to standardize our reporting.

Committee Observations and Findings

2850) The Committee observed and found that:

1) The Accounting Officer at the material time (2017-2018) to be held liable for the above-stated breaches.
2) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
3) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
4) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
5) The matter therefore remained unresolved.

Committee Recommendations

2851) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer should ensure that he availes supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The Accounting Officer must ensure that, while procuring goods and services, they do so pursuant to Section 45 (3) of the Public Procurement and Asset Disposal Act of 2015 which provides that "all procurements processes shall be planned by the procuring entity concerned through an annual procurement plan." Further that funds are readily available for the payment of the goods and services on time to avoid any variations in terms of exchange rates.**
4) **The Accounting Officer must comply with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**

1049.3 Maize in Silos.

2852) According to the oversight board minutes of 6 April 2018, Minute No. 4/04/2018, it was indicated that it is not suitable for maize to be stored for more than six months in the silos to avoid deterioration and loss in value. It was, however, observed that as at 30 June 2018, 2,098,516 bags of 90kg valued at KSh 4,077,416,588 were stored in silos in various NCPB depots. The maize had been held in the stores for more than six months.

2853) The Fund had a budget provision for 2017/18 financial year of KSh 408,000,000 for purchase of 2,718,000 jute bags. It was not clear why the maize was not bagged and transferred to the conventional stores.

2854) In addition, a visit to Shimanzi and Changamwe depots revealed that there were 200,262 bags of maize which were stored in polypropylene bags. The maize is likely to deteriorate in quality due to high level of humidity in the Coast Region.

Submission by the Accounting Officer

2855) The Accounting Officer submitted that as at 30th June 2018, a total of 2,098,516 x 50 kg bags of maize were stored in various silos and not 2,098,516 x 90 kg bags. These had been in those silos for over six months against the recommended period.

2856) Although SFRTB had initially budget KSh 408,000,000 for procurement of Jute Bags, the same was not reflected in the printed estimates. Due to inadequate funding, we could not procure enough bags. However, NCPB endeavored to maintain quality of maize in the silos in fair quality condition for human consumption. In future we endeavour to include the Jute bags in the budget. Nevertheless, the maize was sold in good quality.

Committee Observations and Findings

2857) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
4) The matter therefore remained unresolved.

Committee Recommendations

2858) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer should ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015**
3) **The Accounting Officer must ensure that, while procuring goods and services, they do so pursuant to Section 45 (3) of the Public Procurement and Asset Disposal Act of 2015 which provides that "all procurements**

processes shall be planned by the procuring entity concerned through an annual procurement plan." Further that funds are readily available for the payment of the goods and services on time to avoid any variations in terms of exchange rates.

4) **The Accounting Officer must comply with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**

1049.4 Powdered Milk

2859) Disclosed in Note 9 to the financial statements is powdered milk stock from Kenya Creameries Cooperative (KCC) amounting to KSh.700,000,000 that has been outstanding in the records for over two years. No documentary evidence was however produced to confirm its existence as at year end or its suitability for human consumption. Under the circumstances, the existence of the powdered milk stock could not be confirmed.

Submission by the Accounting Officer

2860) In the report dated 14th November, 2016 New KCC confirmed availability of 937,478 kgs of powdered milk worth KSh 700 million stored in their Eldoret factory. Further report dated 23/8/2017 confirmed availability of stocks worth KSh.700 million. The state Department also discussed this matter in the last session, the MD of New KCC came before the committee to further explain and present documents

Committee Observations and Findings

2861) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the recent Audit performed by the Office of the Auditor General, there were no milk stocks held in KCCC depot as at 30th June, 2021; and
5) The matter therefore remained unresolved.

Committee Recommendations

2862) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public**

Finance Management Act 2012.

4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015**.

1049.5 Annual Stocktaking and Maintenance of Stock Records

2863) It was noted that Article 8 of the 5th agreement signed on 10 August 2016 between Strategic Grain Reserve Fund and NCPB stated that the Principal and Agency should conduct joint annual stocktaking to establish the stocks levels. Further, examination of the Fund's 2017/2018 budget shows that there was a budget provision of KSh 2 million for an independent stock taking through a consultant. However contrary to the requirements of the Agreement no report of joint annual physical stocktaking was provided for audit verification.

2864) In addition, the Agent was supposed to keep separate records at all times for stock of the Principal held in it stores. The records are expected to have the date of purchase, general quality condition and other relevant information for continuous assessment of the Principal's stock position. In the sample of twelve depots visited, there was no evidence that the Agent, NCPB had maintained separate records, contrary to the agreement. In the absence of the reports, it was not possible to confirm if annual joint stocktaking was done as required by the agency agreement.

Submission by the Accounting officer

2865) The Accounting Officer admitted that the agency agreement stipulates that an annual stock take be done jointly by both the Principal and the Agent. However, in this particular Financial Year this was not done because of shortage of staff at the SFR secretariat. NCPB however, conducted annual stock take for 2017/2018 Financial Year between Monday 25th to Friday 29th June 2018 in all NCPB stores and silos. The exercise entailed physical verification of all commodities including SFR maize, fertilizers, bank/cash balances and other Board's assets.

2866) It should also be noted at the same time many agencies were involved in verification of maize held in various NCPB stores that included, EACC, Farmers Vetting Committees, Inter-ministerial taskforce appointed to establish the quantities held in NCPB.

Maintenance of Stock Records

2867) NCPB (Agent) during purchasing, storage and all general stock management activities maintains separate and distinct records for various stock based on ownership as follows;

a) Function1 - Refers to all NCPB Commercial stocks

b) Function 2 - Refers to all Strategic Food Reserve Stocks

c) Function 3 - Refers to all Famine Relief Stocks

d) Function 4 - Refers to all Third Party stocks

2868) Consequently all Depots maintain SFR Maize under F2 for purposes of verification both physically and from computer generated records and reports. The date of purchase is indicated on stack cards maintained in the respective stores in all depots and a detailed purchase advice report is also maintained through NCPB Navision system which is available for review.

Committee Observations and Findings

2869) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) Although the State Department conducted annual stock taking for 2017/2018 Financial Year in the subsequent Financial year, the State department was in breach of the agency agreement that stipulates a yearly joint annual stock taking; and
3) The matter therefore remained unresolved.

Committee Recommendations

2870) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1050. Receivables

2871) The statement of financial position reflects receivables balance of KSh 18,160,523,581 as at 30 June 2018. As disclosed under Note 10 to the financial statements, the amount includes KSh 6,865,220,613 brought forward from the previous year and due from the State Department for Special Programmes. It was however indicated in the previous year that an amount of KSh 5,849,677,056 was not supported by documentary evidence. In addition, the debtors' ledger for State Department of Special Programmes maintained by the National Cereals and Produce Board reflected a balance of KSh 90,427,573 resulting in a variance of KSh 6,774,793,040 that was not reconciled or explained.

2872) In addition, Note 10 to the financial statement discloses receivables from exchange transaction in respect of subsidy component on imported maize amounting to KSh 11,295,302,968. However, this amount was not supported. Under the circumstances, the validity and accuracy of the receivables balance of KSh 18,160,523,581 could not be confirmed.

Submission by the Accounting officer

2873) When the SFR function was transferred from the Ministry of Special programmes, there was an outstanding debt of KSh.6,865,220,613 owed to SFR by the special programmes on borrowed maize for relief operations that has never been paid to date. The Accounting officer admitted that as at the time of the audit, the supporting documents in respect of this outstanding debt were not availed to the auditor for verification. However, the list was forwarded to the auditor for verification.

2874) On the quoted figure of KSh.6,774,793,040 as a variance between NCPB records and the Fund account, the accounting Officer reported that this amount does not relate to SFR account. It should be noted that NCPB handles relief matters on behalf of the ministry of Special Programmes and this receivables were on account of those transactions. There is therefore no relationship between these records to warrant reconciliation. SFR does not handle relief operations.m

2875) It was true the financial statement reflects a maize subsidy amount of KSh.11,295,302,968 on imported maize. The Ministry has engaged the National Treasury for it to refund to the Fund the maize subsidy component of KSh.11,295,302,968. Letter to National Treasury requesting for the subsidy component (was availed for perusal by the Committee.

Committee Observations and Findings

2876) The Committee observed and found that:

1) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The maize subsidy component of KSh.11,295,302,968 had not been refunded to date; and
3) The matter therefore remainedunresolved.

Committee Recommendations

2877) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1051. Trade and Other Payables from Exchange Transactions

2878) The statement of financial position reflects trade and other payables from exchange transactions balance of KSh.13,181,494,364. The amounts include VAT payable of KSh.400,295,571 other creditors of KSh.1,138,494,057 and prior year adjustments of KSh.1,228,212,674 that were not supported with documentary evidence. It was observed that some of the creditors balance were contrary to receivables.

2879) In the absence of supporting documents, the completeness and accuracy of trade and other payables from exchange transactions balance of KSh.13,181,494,364 as at 30 June 2018 could not be confirmed.

Submission by the Accounting officer

2880) The Accounting Officer admitted that the Statement of Financial Position reflects trade and other payables from exchange transactions amounting to KSh. 13,181,494,364 which included claims by NCPB for agency fee not paid over the years, components of VAT not paid and prior year adjustments. The Ministry has therefore constituted a joint team to validate the same and give a final report on what is payable.

Committee Observation and Findings

2881) The Committee observed and found that:

1) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) There had been outstanding dispute between NCPB and SFR on amounts to be paid of which has not been resolved to date
3) The Accounting Officer was unable to avail the report of the constituted joint validation team mentioned above; and
4) The matter therefore remained unresolved.

Committee Recommendations

2882) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) be held liable for the above-stated breaches.**
2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1052. Reserves

2883) The statement of financial position also reflects a balance of KSh.64,874,935,811 under reserves. This was an increase from last year’s balance of KSh.36,593,162,751 by

KSh.28,281,773,060. The increase was attributed to government exchequer releases of KSh.9,994,000,000 and proceeds from sale of maize KSh.18,287,773,060. However, the amount of KSh.18,287,773,060 in respect of proceeds from sale of maize was double counted as it is part of the sales figure of KSh.20,353,837,593. In addition, the exchequer release of KSh.9,994,000,000 was to procure maize and therefore should have been accounted for under revenue from non-exchange transactions.

2884) Further, the reserves balance brought forward from previous years were not supported either with documentary evidence or any corresponding assets. Consequently, the reserves balance reported as at 30 June 2018 could not be confirmed.

Submission by the Accounting officer

2885) The Accounting officer admitted that there was an increase in reserves that was attributed to sale of maize and government exchequer received by the Fund. As noted by the auditors, there was a double accounting of KSh.18,287,773,060 in in State Department's Financial statements which have now been adjusted in the revised financial statements of 2018/2019. The opening balance represent the funding from Treasury for procurement of Maize in previous years.

2886) In the case of reserves brought down, this is a book entry in our records but in reality, this reserve has been depleted by the subsidy component that has been offered by the Government to the millers with the aim of stabilizing maize prices in the market. The Ministry has requested for an approval from the Cabinet for an allocation of the book loss.

Committee Observations and Findings

2887) The Committee observed and found that:

1) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the correspondence between the State department and the Cabinet seeking approval for an allocation of book loss was not availed; and
5) The matter therefore remained unresolved.

Committee Recommendations

2888) The Committee recommended that:

1) **The Accounting Officer at the material time (2017-2018) to be held liable for the above-stated breaches.**
2) **The Accounting Officer must prepare and keep proper accounting records pursuant to Section 68 (2) (b) of the PFM Act, 2012.**

3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1053. Differences between the Trial Balance and Supporting Schedules Balances

2889) The trial balance figures differed with the figures reflected in schedules presented for audit as detailed below:

Component	Amount in Trial Balance KSh	Amount in Schedule KSh	Difference KSh
Drying charges	881,220,177	109,978,618.11	771,241,559
Purchases commission	109,978,619	492,671,106.53	(382,692,487)
Accumulated loss as at 1st July	23,598,923,911	47,248,430,759	(23,649,506,848)

2890) Under the circumstance, the accuracy and completeness of the financial statements presented for audit could not be ascertained

Submission by the Accounting Officer

2891) A trial balance is a statement of debits and credits in a double entry book keeping with any difference indicating an error but in this case, the trial balance had balanced meaning that it had no error. Also the trial balance can only be compared with the ledger but not schedules.

Committee Observations and Findings

2892) The Committee observed and found that:
1) It was satisfied with the explanation provided by the Accounting Officer.
2) The matter therefore marked as resolved.

Committee Recommendations

2893) The Committee recommended that:
The matter be resolved.

Presentation of Financial Statements

1053.1 Title of the Fund on the Financial Statements

2894) A review of the financial statements presented for audit by the Fund revealed that although the Legal Notice No.15 of February 2015 created Strategic Food Reserve Trust Fund, the financial statements title reads Strategic Grain Reserve Fund on the cover page.

Submission by the Accounting Officer

2895) The Accounting Officer admitted that the title of the financial statement for Strategic Food Reserve Trust Fund was titled Strategic Grain Reserve. This has since been rectified to read the correct title in the revised Financial Statement.

Committee Observations and Findings

2896) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The Committee marked the matter as resolved.

Committee Recommendations

2897) The Committee recommended that:

The matter be resolved.

1053.2 Statement of Trustees Responsibilities

2898) Paragraph 3 of the statement of trustee responsibilities, states that the financial statements have been prepared in accordance with International Financial Reporting Standards (IFRS) while the cover page shows that the financial statements have been prepared in accordance with International Public Sector Accounting Standard (IPSAS) accrual**.**

Submission by the Accounting Officer

2899) The Accounting Officer admitted that the financial statements have been prepared in accordance with International Public Sector Accounting Standard (IPSAS) accrual but there was a typing error which stated that the financial statements have been prepared in accordance with International Financial Reporting Standards (IFRS). The same has since been rectified in the amended financial statements.

Committee Observations and Findings

2900) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The Committee marked the matter as resolved.

Committee Recommendations

2901) The Committee recommended that:

The matter be resolved.

1053.3 Statement of Comparison of Budget and Actual Amounts

2902) According to the guidelines issued by the Public Sector Accounting Standards Board on the revised International Public Sector Accounting Standards (IPSAS) Accrual template dated 30 June 2017, the statement of comparison of budget and actuals should form part of the financial statements submitted for audit. However, the financial statements submitted for audit did not include the statement of comparison of budget and actual amounts.

Submission by the Accounting Officer

2903) The Accounting Officer admitted that the financial statement did not include Statement of Comparison of Budget and Actual amounts. This anomaly has been rectified in the revised Financial Statements.

Committee Observations and Findings

2904) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory.
2) The Committee marked the matter as resolved.

Committee Recommendations

2905) The Committee recommended that:

The matter be resolved.

1053.4 Principal Secretary Statement

2906) The statement by the Principal Secretary highlighted various key activities of the Fund during the year under review which included the purchase of 3.8 million bags of local maize and one million bags of imported maize. This differs with Note 6 to the financial statements that reflect that 3.6 million bags of local maize were purchased at a cost of 11.2 billion while 9.7million bags of maize were imported at a total cost of 34.8 billion. Other available records indicate an amount of 15.6 million bags were imported and 3.7 million bags were bought from local farmers.

Submission by the Accounting Officer

2907) The Accounting Officer admitted that there was a discrepancy in the description of activities for the Fund for the Financial Year which differed in the description as indicated in Note 6 of the financial statement. This has since been rectified.

Committee Observations and Findings

2908) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The Committee marked the matter as resolved.

Committee Recommendations

2909) The Committee recommended that:

The matter be resolved.

AGRICULTURAL INFORMATION RESOURCE CENTRE REVOLVING FUND ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1057. Accumulated Surplus

2910) The statement of financial position reflects an accumulated surplus of KSh.12,115,374 as at 30 June 2018 (2017**:** KSh.18,003,893). However, the decrease of

KSh.5,888,519 from the previous year`s balance has not been supported by any movement schedule or other documentary evidence.

2911) In addition, the statement of changes in net assets for the year ended 30 June 2018 shows accumulated surplus balance of KSh.19,460,906 as of that date, which differs with the balance of KSh.12,115,374 reflected in the statement of financial position as at 30 June 2018. The resulting difference of KSh.7,345,532 has not been reconciled or explained.

2912) Under the circumstances, the accuracy of the accumulated surplus of KSh.12,115,374 as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

2913) The Accounting Officer submitted that it was true the statement of financial position shows accumulated surplus of KSh.12,115,374.00 as at 30th June, 2018 (2017- KSh. 18,003,893.00). The difference of KSh. 5,888,519.00 was due to the financial position on accumulated surplus. This has been revised accordingly to reflect the difference of KSh. 5,888,519.00 as capital replacements. The revised statements have been provided to the Auditors for verification.

Committee Observations and Findings

2914) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory.
2) The Committee marked the matter as resolved.

Committee Recommendations

2915) The Committee recommended that:

The matter be resolved.

1058. Statement of Changes in Net Assets

2916) The statement of changes in net assets for the year ended 30 June 2018 reflects total net assets balance of KSh.58,377,628 as at 30 June 2018 which differs with the balance of KSh.15,744,051 shown in the statement of financial position by KSh.42,633,577. The difference has not been reconciled or explained.

2917) The statement further shows capital replacement reserve balance of KSh.19,458,361 comprising of depreciation reserve of KSh.13,569,842 and transfer to /from accumulated surplus of KSh.5,588,519. However, the same have not been supported with analysis and explanatory notes.

Submission by the Accounting Officer

2918) The Accounting Officer submitted that it was true the statement of changes in net assets for the year ended 30th June 2018 reflects a total net balance of KSh. 58,377,626.00 as at 30th June 2018 which differs with the balance of KSh. 15,744,051.00 shown in the statement of Financial position by KSh. 42,633,577.00.

2919) It was also true that the statement further shows capital replacement reserve balance of KSh. 19,458,361.00 comprising of depreciation reserve of KSh. 13,569,842.00 and transfer to/from accumulated surplus of KSh. 5,588,519.00. We wish to state that we have done the necessary adjustments in the year under review and reconciliation of old balances is ongoing.

Committee Observations and Findings

2920) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) The Accounting Officer failed to ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015;
4) The Committee marked the matter as unresolved.

Committee Recommendations

2921) The Committee recommended that:

1) **The Accounting Officer should, within three months of adoption of this report, conclude the ongoing reconciliation and report to Parliament.**
2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
3) **The Accounting Officer must ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
4) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**

1059. Long Outstanding Receivables from Exchange Transactions

2922) The statement of financial position reflects a balance of KSh.10,505,140 in respect of receivables from exchange transactions as at 30 June 2018, which includes an amount of KSh.2,808,559 relating to the period from November 1993 to June 2017. No documentary evidence has been provided by management to show efforts made to recover these long outstanding debts. In addition, no provision for bad debts was made in the financial statements for the long outstanding amount.

2923) In the above circumstances, receivables from exchange transactions balance of KSh.10,505,140 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2924) The Accounting Officer submitted that it was true the statement of financial position reflects a balance of KSh. 19,505,140.00 in respect of receivables from exchange transactions as at 30th June 2018 which includes an amount of KSh. 2,808,559.00 relating to the period from November 1993 to June 2017.

2925) A review of the position as at 30th June 2019 indicates that a sum of KSh. 3,295,120.00 was recovered out of KSh. 10,505,139.00 leaving a balance of KSh. 7,210,019.00 as at 30th June 2019. Annex 1059. We also wish to state that we have embarked on debt collection exercise from the government agencies by writing demand notice letters to settle long outstanding liabilities to enable us clear the outstanding debts from our book of Accounts.

Committee Observation and Findings

2926) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory.
2) The Committee marked the matter as resolved.

Committee Recommendations

2927) The Committee recommended that:

The matter be resolved.

1060. Unsupported Decrease in Government Grants

2928) The statement of cash flows for the year ended 30 June 2018 reflects an amount of KSh.12,600,998 in respect of decrease in government grants. However, the management did not provide supporting documents to show what the amount represents.

2929) Under the circumstances, it was not possible to confirm the validity and completeness of KSh.12,600,998 as at 30 June 2018.

1061. Inaccuracies in the Financial Statements

2930) The following inaccuracies were noted in the financial statements presented for audit:

Element of the Financial Statements	**Component Affected**	**Observation**	**Balance as per Financial Statements KSh.**	**Correct Balance KSh.**	**Variance** KSh.
Note10	Total Cash and Cash Equivalents	Previous year's comparative balance not correctly stated	13,815,020	Audited 2016/2017 account balance 9,135,207	4,679,813
Note13	Total Net Book Values-Property Plant	Previous year's comparative	1,582,031	Audited 2016/2017 account	48,796

	& Equipment	balance inaccurately stated		balance 1,630,827	
Statement of Financial Position	Total Net Assets & Liabilities	Incorrect total stated	Balance indicated 15,744,051	Correct balance 16,769,197	1,025,146
Statement of Financial Performance for the Year	Revenue from Exchange Transactions	Incorrect total revenue stated	Amount indicated 27,672,728	Correct amount 24,864,169	2,808,559
Statement of Changes in Net Assets	Accumulated Surplus	Previous year's balance incorrectly stated	Previous year's balance 32,567,104	audited 2016/2017 accounts balance 31,385,588	1,181,516

2931) Consequently, the accuracy and completeness of the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2932) The Accounting Officer submitted that it was true there were inaccuracies in the financial statements. We wish to state that all this has been corrected in the revised copy of 2017/2018 financial statements attached. The revised statements have been provided to the Auditors for verification.

Committee Observations and Findings

2933) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory.
2) The Committee marked the matter as resolved.

Committee Recommendations

2934) The Committee recommended that:
The matter be resolved.

1062. Incorrect Classification of Expenditure on Purchase of Curtain and Fittings

2935) Note 13 to the financial statements reflects additional assets during the year of KSh.810,825 under plant and machinery. This amount includes KSh.676,250 incurred on purchase of curtains and fittings which should have been classified under furniture and fittings, and depreciated at 12.5 % per annum instead of the rate applied of 10 % for plant and machinery. Thus the accuracy of the depreciation charge for the year of KSh.410,381 could not be confirmed.

Submission by the Accounting Officer

2936) The Accounting Officer submitted that it was true the financial statement reflects additional assets during the year2017/2018 amounting to KSh. 810,250.00 under plant and machinery. This amount includes KSh. 676,250.00 incurred on purchase of curtains and fittings which should have been classified under furniture and fittings and depreciated at

12.5% per annum instead of the rate applied of 10% for plant and machinery. The error has been corrected in the revised financial statements and the necessary adjustments have been made accordingly.

Committee Observations and Findings

2937) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory.
2) The Committee marked the matter as resolved.

Committee Recommendations

2938) The Committee recommended that:

1) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **The Accounting Officer must always reclassify the purchase of goods and services within one month after the close of the financial year pursuant to Regulation 97 (3) read together with Regulation 97 (1) of the PFM (National Government) Regulations 2015.**
3) **The matter be resolved.**

1063. Inaccuracies in the Statement of Comparison of Budget and Actual Amounts

2939) The statement of comparison of budget and actual amounts reflects total budgeted expenditure of KSh.30,604,000, while the approved budget for the year ended 30 June 2018 reflects total budgeted expenditure of KSh.29,244,360, resulting in an unexplained variance of KSh.1,359,640.

Submission by the Accounting Officer

2940) The Accounting Officer submitted that it was true that the statement of comparison of budget and actual amounts showed dissimilarities in various expenditures. He stated that the dissimilarities of Expenditure have been rectified to reflect the true position per item on budget and actual amounts.

Committee Observations and Findings

2941) The Committee observed and found that:

1) The Accounting Officer failed to ensure that he availed supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015;
2) The Accounting Officer failed to comply with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015;
3) The Committee however marked the matter as resolved.

Committee Recommendations

2942) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The Accounting Officer must ensure that he complies with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**

2943) The Committee observed that Paragraph 1064 to 1068 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

DROUGHT RESILIENCE AND SUSTAINABLE LIVELIHOOD PROGRAMME (ADF LOAN NO.2100150028345)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1069. Variances Between Audited Financial Statements for 2016/2017 and Comparative Figures in the Financial Statements for 2017/2018

2944) The following variances were noted between the audited financial statements for 2016/2017 and comparative figures in the financial statements for 2017/2018.

Item	**Audited Figure in Financial Statements for 2016/2017 KSh.**	**Comparative Figure in Financial Statements for 2017/2018 KSh.**	**Variance KSh.**
Loans from External Partners	410,388,669.15	398,800,811.80	11,587,857.35
Purchase of Goods and services	66,843,704.25	78,758,135.55	(11,914,431.30)
Acquisition of non-financial assets	350,855,239.15	332,839,511.00	18,015,728.15

2945) The management has not provided any explanations, reconciliations or supporting documentary evidence for the variances. Consequently, the validity and accuracy of the comparative figures could not be confirmed.

Submission by the Accounting Officer

2946) The Accounting Officer submitted that it was true there were variances between comparative figures of the four (4) mentioned items in the Audit Report. The figures have been explained and supported in the submitted financial statements of the year ending June 2019.

Committee Observations and Findings

2947) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satifactory.
2) The Committee however marked the matter as resolved.

Committee Recommendations

2948) The Committee recommended that:

1) **The matter be resolved.**
2) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
5) **The Accounting Officer must ensure that he complies with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**

1070. Failure to Capture Transactions in the Ledger and Lack of a Trial Balance

2949) Examination of documents and records produced for audit revealed that the figures reflected in the programme`s financial statements and supporting schedules were not captured in the Ministry`s Intergraded Financial Management Information System (IFMIS) Ledger. In addition, no trial balance was provided in support of the financial statements. Consequently, the completeness and accuracy of receipts and payments presented and disclosed in these financial statements could not be confirmed.

Submission by the Accounting Officer

2950) The Accounting Officer submitted that it was true the management confirms that all the transactions were captured in the IFMIS ledger. However, some errors were noted and were rectified accordingly. The trial balance was prepared and submitted for review.

Committee Observations and Findings

2951) The Committee observed and found that:

1) The Accounting Officer failed to ensure that he availed supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM

Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012The Committee further observed that the Accounting Officer failed to comply with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015; and
3) The Committee however marked the matter as resolved.

Committee Recommendations

2952) The Committee recommended that:
1) **The matter be resolved.**
2) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
5) **The Accounting Officer must ensure that he complies with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**

1071. Acquisition of Non-Financial Assets

2953) The statement of receipts and payments reflects an amount of KSh.422,897,157 under payments made by third parties in respect of acquisition of non-financial assets. The payments relate to construction of civil works. The management did not, however, provide information relating to the construction progress reports and site meeting minutes.

2954) Consequently, the accuracy and completeness of KSh.422,897,157 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

2955) The Accounting Officer submitted that it was true that in the initial financial statements there was a reflection of KSh.422,897,157 which appeared under payments made to third parties which related to construction of civil works. The Management also provided construction progress reports and site management meetings minutes for all the structures that were under construction in the current financial year for audit review and verification.

Committee Observations and Findings

2956) The Committee observed and found that:
1) The explanation provided by the Accounting Officer was satisfactory.

2) The Committee marked the matter as resolved.

Committee Recommendations

2957) The Committee recommended that:

1) **The matter be resolved.**
2) **The Accounting Officer must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
3) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**

1072. Purchase of Goods and Services

2958) The statement of receipts and payments reflects payments totaling KSh.50,177,608 in respect of purchase of goods and services, and include an amount of KSh.35,250,973 for domestic travel and subsistence allowance. However, the expenditure of KSh.35,250,973 relating to domestic travel and subsistence allowance further includes an amount of KSh.KSh,2,945,420 that was not supported with any documentary evidence. The payments totaling KSh.50,177,608 also includes an amount of KSh.1,797,714 relating to routine maintenance of vehicles and other transport equipment for which an amount of KSh 43,900 was similarly not supported with any documentary evidence.

2959) Consequently, the completeness and accuracy of KSh.50,177,608 expenditure as at 30th June 2018 could not be confirmed.

Submission by the Accounting Officer

2960) The Accounting Officer confirms the document supporting the expenditures have been provided for audit review and verification.

Committee Observations and Findings

2961) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the Accounting Officer made adjustments to the Trial balance and this was pending review and verification by the Auditor General; and
5) The matter therefore remained unresolved.

Committee Recommendations

2962) The Committee recommended that:

1) **The Accounting Officer must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**

1073. Cash and Cash Equivalents

1073.1 Unsupported cash balances

2963) The statement of financial assets as at 30 June 2018 reflects cash balances of KSh 21,477,511 under cash equivalents. However, out of the total cash balances, an amount of KSh 16,576,145 was not supported with any documentary evidence. As a result, the completeness and accuracy of the cash balances of KSh.21,477,511.25 could not be confirmed.

Submission by the Accounting Officer

2964) The Accounting Officer admitted that the figure of KSh 21,477,511.25 was relating to AIEs to support the six project implementing counties. The state Department has communicated to the counties to submit their expenditures returns failure to which no funding will be advanced.

Committee Observations and Findings

2965) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the Accounting Officer made adjustments to the Trial balance and this was pending review and verification by the Auditor General; and
5) The matter therefore remainsed unresolved.

Committee Recommendations

2966) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are**

done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

2) **The Accounting Officer must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1073.2 Bank balances

2967) The statement of financial assets as at 30th June 2018 reflects bank balances of KSh.26,866,690. Review of project's bank reconciliation statement as at 30th June 2018 revealed payments totaling KSh.2,143,900.00 that had not been recorded in the cash book. Similarly, the statement reflects cash deposits of KSh.194,174.00 relating to receipts in the bank not yet recorded in the cash book. However, no analysis or supporting documents were provided to support the reconciling amount.

2968) Consequently, the accuracy and completeness of the bank balances of KSh.26,866,690 as at 30th June 2018 could not be confirmed.

Submission by the Accounting Officer

2969) The Management took measures to ensure that all payments not captured before, were recorded accordingly in the cash book. The Payments of KSh 2,143,900.00 were accordingly recorded in the Cash book and the anomaly corrected. Moreover, the cash deposits of KSh.194,174.00 in the bank have also been recorded accordingly in the cash book.

Committee Observations and Findings

2970) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The matter is therefore resolved.

Committee Recommendations

2971) The Committee recommended that:

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

end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

3) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1074. Statement of Comparative Budget and Actual Amounts

2972) The statement of Comparative Budget and Actual amounts reflects nil amounts contrary to the requirements of International Public Accounting Standards Financial Reporting under Cash Basis of Accounting Paragraph 1.9 and the guidelines prescribed by the Public Sector Accounting Standards Board. No explanation has been provided for this anomaly.

Submission by the Accounting Officer

2973) The Accounting Officer admitted that the statement of comparative Budget and Actual amounts had not been provided. The financial statements for the period ended 30th June 2019 has been tabulated to reflect the cummulative comparative Budgets and Actual amounts expendended to date.

Committee Observations and Findings

2974) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The Committee marked the matter as resolved.

Committee Recommendations

2975) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The Accounting Officer must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1075. The Special Account Statement (Designated Account)

2976) The special account statement reflects an amount of KSh.44,042,119.09 (US$424,490.55) as having been withdrawn during the year under review. This amount differs with the loan from external development partner of KSh.42,586,397 (UA3,549,841) reflected in the statement of receipts and payments. The resultant difference of KSh.1,455,722 has not been explained or reconciled.

Submission by the Accounting Officer

2977) The Accounting Officer submitted that the project had requested the donor (African Development Bank) an amount of US $ 424,490.55 which was received in the special account held at the Central Bank of Kenya. The Project then through a letter Ref: MOALF/DRSLP/3/1Vol.1(72) dated 12th April 2018 had requested for exchequer release of KSh. 42,875,060.55 and an amount of KSh. 42, 586,397 was received in the project account and this amount was duly reflected in the revised Financial statements. The resultant difference could be attributed to translation issues.

Committee Observations and Findings

2978) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The Committee marked the matter as resolved.

Committee Recommendations

2979) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**
2) **The Accounting Officer must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

RICE BASED MARKET ORIENTED AGRICULTURE PROMOTION PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

1079.Unsupported Accumulated Receipts

2980) The statement of receipts and payments reflects cumulative receipts of KSh.130,980,000 (US$1,271,650) in respect of proceeds from domestic and foreign grant

(JICA) and KSh.60,070,000 (US$575,922) relating to transfer from the Government of Kenya. However, no supporting documentation has been provided for receipts of KSh 750,000 for the year under review.

Submission by the Accounting Officer

2981) The Accounting Officer submitted that RICEMAPP operated in Kirinyaga County, within Mwea West Sub-county. The project depended on Sub-County Treasury for its financial transactions, documentation and support. At the time of auditing, there were major staff changes at the Sub county Treasury and this caused delay in accessing the relevant documents required. They were however availed but late towards conclusion of the auditing process. Once more, the documents are attached as indicated.

Committee Observations and Findings

2982) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The Committee marked the matter as resolved.

Committee Recommendations

2983) The Committee recommended that:

1) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1080. Unsupported Accumulated Expenditure

2984) The statement of receipts and payments reflects cumulative payments totaling KSh.191,049,861 out of which an amount of KSh749,930 relates to the year under review. However, no supporting documentation was provided for payments of KSh.749,930 during the year under review.

Submission by the Accounting officer

2985) Documentation for KSh. 749,930 was provided but late. This was because of the major staff changes at the Sub county Treasury (as indicated above). This delayed accessibility of the relevant documentation of expenditures at the time of Auditing. The same documents have now been availed for verification

Committee Observations and Findings

2986) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The Committee marked the matter as resolved.

Committee Recommendations

2987) The Committee recommended that:

1) **The matter be resolved.**
2) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1081. Failure to Provide Accounting and Other Records

2988) The project management did not provide key information, documents and records for audit verification.

2989) In the circumstances, it was not possible to verify the extent to which the project has achieved its objective, extent of compliance with the financing agreement if any; and whether budgetary and financial controls existed and were effective.

2990) In addition, it has not been possible to confirm the existence and proper management of the projects assets and accuracy and completeness of the financial statements.

Submission by the Accounting Officer

2991) Due to major staff changes at the time of Auditing, accessing documents for counterpart funding delayed. They were however received and availed but late. Documentation for JICA expenditures were however not available at the time of auditing. This was because RICEMAPP had ended; JICA staff had left with the Documents, which they surrendered to JICA Headquarters. This was in line with the Technical Cooperation Agreement (Annex 1081). JICA has since invited the office of the Auditor General to audit the documents, which are in their custody.

Committee Observations and Findings

2992) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The Committee marked the matter as resolved.

Committee Recommendations

2993) The Committee recommended that:

1) **The matter be resolved.**
2) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that they prepare and keep**

proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

SMALL SCALE HORTICULTURE DEVELOPMENT PROJECT (ADF LOAN NO. 2100150014943

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1084. Cash and Cash Equivalents

2994)

1084.1 The statement of financial assets and liabilities reflects a bank balance of KSh.333,295.80 as at 30 June 2018, compared to the last year's closing balance of KSh.670,018. Transactions in the year under review amounted to KSh.9,031 and were related to bank charges only, resulting in a difference of KSh.660,987 which ought to have been the closing balance as at 30 June 2018. However, an amount of KSh.327,692 of the remainder of the cash difference of KSh.660,987, has been disclosed as a prior year adjustment. The amount (KSh.327,692) is claimed to be related to unsupported payments made for undisclosed prior year pending bills in July 2017.

Submission by the Accounting Officer

2995) The Accounting Officer submitted that KSh.333,295.80 is combination of the two bank balances disclosed in note 8.13 of the financial statement. The cash movement of the year under audit is KSh.336,723.00. During the financial year the project incurred bank charges of KSh,9,031 and prior year expenses of KSh.327,692.00 for year 2017.

Committee Observations and Findings

2996) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to cash and cash equivalents was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

2997) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1)**

(e) of the Public Audit Act, 2015.

2998)
1084.2 The bank statement reflects a balance of KSh.118,369.70, while the financial statements show a balance of KSh.333,295.80 as at 30 June 2018.The resulting difference of KSh.214,926.10 between the financial statements and the bank statement has not been reconciled. In addition, bank reconciliation statements for the year ended 30 June 2018 and bank confirmation certificate as at that date were not provided for audit verification.

2999) The validity, completeness and accuracy of the bank balance of KSh.333,295.80 as at 30 June 2018 cannot therefore be confirmed in the above circumstances.

Submission by the Accounting Officer

3000) The Accounting Officer submitted that it was true there is a discrepancy of KSh.214,926.10 between the bank statement and the financial statement as at June 30 2018. We wish to state that a letter has been written to the previous signatories to get the bank balances and certificate as at June 30th 2018 to correct the anomaly.

Committee Observations and Findings
3001) The Committee observed and found that:
1) The explanation given by the Accounting Officer with regard to bank reconciliations was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations
3002) The Committee recommended that:
1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1085. Loan from External Development Partners

3003) The statement of receipts and payments reflects a cumulative amount of KSh.2,094,558,220 in respect of loan from external development partners (African Development Bank) while the funding summary, of the Project Information and Overall Performance reflects an amount of KSh.2,025,723,363. The resulting difference of KSh.68,834,857 has not been explained or reconciled.

Submission by the Accounting Officer

3004) The Accounting Officer submitted that it was true the statement of receipts and payments reflects a cumulative amount of KSh. 2,094,558,220 in respect of loan from external development partners while the funding summary in the project information reflects an amount of KSh 2,025,723.,363 resulting to a difference of KSh. 68,834,857. We wish to state that once we prepare the financial statement for year ending June 30th 2019 the error will be rectified.

Committee Observations and Findings

3005) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to Loan from External Development Partners was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3006) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

Other Matter

1086. Failure to Close the Project Upon its Completion

3007) Project Information indicates that the project started on 20 May 2008 and ended on 31 December 2015. However, the Project has been active as evidenced by the special account statement balance of KSh.18,038.76 (US$178.69) as at 30 June 2018. However, no documentary evidence was provided to show that the project had been granted extension beyond December 2015. In addition, no Project Completion Report has been produced for audit verification.

Submission by the Accounting Officer

3008) The Accounting Officer submitted that it was true the project was not closed upon completion, we have written to Treasury to seek guidance on where to surrender the remaining funds in the projects account once advised we shall close and produce financial statement as 30th June 2020.

Committee Observations and Findings

3009) The Committee observed and found that:

1) The the explanation given by the Accounting Officer with regard to Failure to Close the Project Upon its Completion was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3010) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1087. Late Submission of the Financial Statements

3011) The financial statements of Small Scale Horticulture Development Project for the year ended 30 June 2018 were submitted for audit late on 3 December 2018. Further, the financial statements submitted were not signed by the Accounting Officer.

Submission by the Accounting Officer

3012) The Accounting Officer submitted that it was true that the Financial Statements were submitted in late December, this is because during the year under review since the project had ceased operation even though the project had come to an end in the Financial Year 2016/2017.

Committee Observations and Findings

3013) The Committee observed and found that:
1) The explanation given by the Accounting Officer with regard to Failure to Close the Project Upon its Completion was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3014) The Committee recommended that:
1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

3015) The Committee observed that Paragraph 1088 to 1089 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

3016) The Committee observed that the Paragraph 1090 to 1098: fall under the Accounting Officer of the State Department for Livestock.

3017) The Committee observed that Paragraph 1099 to 1108 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

NATIONAL AGRICULTURAL AND RURAL INCLUSIVE GROWTH PROJECT (IDA CREDIT NO.5900-KE)

REPORT ON THE FINANCIAL STATEMENTS

Other Matter

1109. Project Completion Status and Delays in Processing Transactions

3018) According to the financing agreement act dated 23 July 2014, (page 4 schedule II-conditions in the grant agreement) the project ought to have been completed by 30 June 2017 but was extended to 31 December 2018.

3019) Further, a review of the Project's receipts and bank statements confirmed that the second disbursement of KSh.13, 084,658 ($126,178) was received on 5 January 2018 while the third and last tranche of $77,939 had not been received from the National Treasury as of 30 October 2018.The second and the third (last) disbursement ought to have been made on July 1, 2015 and July 1, 2016 respectively as per the project financing agreement dated July 2014. The project is in the final phase of implementation but a number of activities are yet to be completed, including the purchase of laboratory equipment and reagents without which the project would be unable to meet some of its objectives and have impact as envisaged in the project proposal.

3020) In the circumstances, it may not be possible for the project to achieve some of its objectives by the end of 31December 2018.

3021) The Committee observed that Paragraph 1110 to 1111 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

33.0. STATE DEPARTMENT FOR LIVESTOCK

FINANCIAL STATEMENTS FOR VOTE 1162

Mr. Harry Kimutai, the Principal Secretary and Accounting Officer for the State Department of Livestock (Vote 1162) appeared before the committee on 24th September 2020 to adduce evidence on the Audited Financial Statements for the State Department of Livestock (Vote 1162) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

Ms. Penninah Ndirangu	- Head of Accounting Unit
Mr. Patrick Ngicuru	- Chief Finance Officer
Mr. Joseph M. Kiraita	- Assist. Accountant General
Mr. Evans N. Muthama	- Deputy Director Veterinary Services
Mr. Peter O. Mung'ayo	- Assistant Director Livestock Project
Mr. William Koech	- Ag. Deputy Director HRM
Ms. Anisia Ireri	- HRMA

Basis for Disclaimer of Opinion

1112. Inaccuracies in the Comparative amounts and balances

3022) The comparative amounts and balances under 2016/2017 reflected in the statement of financial position as at 30June,2018 and the statement of receipts and payments for the year ended 30June,2018 differs with the closing amounts and balances reflected in the audited financial statements for 2016/2017 as detailed below.

Statement of Receipts and Payments				
Particulars	**Note**	**Closing Amounts/ balances as per 2016/2017 Audited Financial statements**	**2016/2017 Comparative Amounts/balances as per 2017/2018 Financial Statements**	**Un-explained Variance**
		Kshs	**Kshs**	**Kshs**
Proceeds from Foreign Borrowings	3	678,234,316	700,620,267	(22,385,951.00)
Compensation of Employees	5	1,299,750,411	1,298,806,415	943,996.00
Use of goods and services	6	1,242,012,333	1,249,565,306	(7,552,973.00)
Transfers to Other Government Units	7	5,413,972,248	5,515,962,725	(101,990,477.00)

Other grants and transfers	8	109,634,336	114,319,136	(4,684,800.00)
TOTAL PAYMENTS		8,503,926,817	8,617,211,071	(113,284,254.00)
SURPLUS/DEFICIT		145,108,293	54,209,990	90,898,303.00

Statement of Financial Statements				
Particulars	**Note**	**Closing Amounts/ balances as per 2016/2017 Audited Financial statements**	**2016/2017 Comparative Amounts/balances as per 2017/2018 Financial Statements**	**Un-explained Variance**
		Kshs	**Kshs**	**Kshs**
Bank Balances	13A	39,458,094	19,473,596	19,984,498
Total Cash and cash equivalent	13	39,801,796	19,817,298	19,984,498
Account Receivables-Outstanding Imprest	14	53,821,729	28,923,073	24,898,656
District Suspense		155,185,365	35,391,607	119,793,758
TOTAL FINANCIAL ASSETS		209,007,094	84,131,979	124,875,115
Accounts Payables Deposits and retentions	15	18,882,032	17,707,534	1,174,498
Related third Party transactions-Transfers to government Development Projects		2,074,742,553	2,176,733,030	(101,990,477)

3023) In addition, the figures reflected under the 2016/2017 comparative amounts in the statement of cash flows varies materially with the audited figures reflected in the financial statements for 2016/2017.As a result, the statement of cash flows for the year ended 30 June 2018 reflects cash and equivalents balance of Kshs.19,817,299 at the beginning of the year, which differs with the closing balance of Kshs.39,801,797 reflected in the audited financial statements for 2016/2017.

3024) No explanations or reconciliations have been provided for the variances between the 2016/2017 comparative balances and the audited balances for the year ended 30June 2017.

Submission by the Accounting Officer

3025) The Accounting Officer submitted that it was true that there were differences in the opening balances. This is because the figures used while preparing the financial statements were derived from the revised copy which we have attached for your review.

Committee Observations and Findings

3026) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Inaccuracies in the Comparative amounts and balances was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3027) The Committee recommended that:

The matter be resolved.

1113. Trial balance

3028) The trial balance as at 30 June 2018 reflects total debt balances of Kshs.52,053,201,675.50 and total credit balances of Kshs.52, 934, 738, 634thus resulting in an un-explained difference of Kshs.881,536,958.The trial balance, is therefore, inconclusive, incomplete, misleading and unreliable.

Submission by the Accounting Officer

3029) The Accounting Officer submitted that it was true that the Comparison Trial Balance as at 30/6/2018 was not balancing as at the time of the audit. This was caused by a system malfunctioning. We wish to state that the Trial balance has since been adjusted and conforms with the subsequent financial statement.

Committee Observations and Findings

3030) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided

for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the Accounting Officer made adjustments to the Trial balance and this was pending review and verification by the Auditor General; and
5) The matter therefore remained unresolved.

Committee Recommendation

3031) The Committee recommended that:

1) **Accounting Officers must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1114. Unsupported Expenditure

3032) The statement of receipts and payments reflects total receipts of Kshs.11,295,816,224 and total payments of Kshs.11,077,643,258 in the year under review. However, most of the expenditure was not supported with documentary evidence as enumerated below.

1114.1 Acquisition of Assets

3033) The statement of receipts and payments reflects an amount of Kshs.1,106,493,864 under acquisition of assets which, as disclosed under Note 9 to the financial statements includes several components as follows:

(i) Construction of Civil Works

3034) The expenditure of Kshs.321,693,250 under construction of civil works disclosed in Note 9to the financial statements includes an amount of Kshs.56,863,538.00 that was not supported by payments vouchers or any other documentation and whose validity is therefore doubtful.

Submission by the Accounting Officer

3035) The Accounting Officer submitted that it was true that as at the time of the audit the documents for Kshs.56,863,538.00 had not been provided. The stated expenditure constitutes Direct Payments made at the National Treasury. The payments were in favour of Cherubs Contractors Ltd Ksh.24,902,370 and Farmo Contractors Ltd Ksh.31,961,168. The State Department only passes Journal Entries to recognize expenditure. Copies of the J.E.s and payment vouchers of the same, are now attached for your review.

Committee Observations and Findings

3036) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Construction of Civil Works were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3037) The Committee recommended that:

The matter be resolved.

(ii) Construction of Building

3038) Note 9 to the financial statements also discloses an amount of Kshs.83,445,805 as having been incurred on the construction of buildings. However, included in the expenditure is an amount of Kshs.26,681,026.40 that was not supported by payments vouchers or any other documentation and whose authenticity is therefore doubtful.

Submission by the Accounting Officer

3039) The Accounting Officer submitted that it was true that as at the time of the audit the stated payment vouchers and AIE's were not provided. The Payment voucher and the AIE returns has since been attached for your reference.

Committee Observations and Findings

3040) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the explanation given by the Accounting Officer and the documents availed with regard to the Construction of Building were not satisfactory; and
5) The matter therefore remained unresolved.

Committee Recommendation

3041) The Committee recommended that:

1) **Accounting Officers must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

(iii)Purchase of vehicles and other transport equipment

3042) Note 9 to the financial statements further discloses an amount of Kshs.33,555,600 as having been incurred on procurement of vehicles and other transport equipment. However out of the expenditure, an amount of Kshs.32,684,600 purchase of was similarly not supported by payment vouchers and other documentation. In addition, log books for the vehicles were not availed for audit verification. Further, the vehicles were not made available for physical inspection. Consequently, the validity of this expenditure could not be ascertained.

Submission by the Accounting Officer

3043) The Accounting Officer submitted that it was true that as at the time of the audit, the documents relating to purchase of vehicles and other transport equipment were not been provided. We wish to state that the said documents have now been submitted for review.

Committee Observations and Findings

3044) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Purchase of vehicles and other transport equipment were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3045) The Committee recommended that:

The matter be resolved.

(iv)Rehabilitation and Renovation of Plant, Machinery and Equipment

3046) Included in the acquisition of assets figure of Kshs.1,106,493,864.00 and as disclosed under Note 9 to the financial statements, is an amount of Kshs.35,553,313 relating to rehabilitation and renovation of plant, machinery and equipment. This amount was equally not supported with documentary evidence. In addition, information on the plant, machinery or equipment rehabilitated was not provided for audit review. As a result, the propriety of the expenditure could not be ascertained.

Submission by the Accounting Officer

3047) The Accounting Officer submitted that it was true that as at the time of the audit the documents relating to rehabilitation and renovation of plant, machinery and equipment had not been provided. We wish to state that the said documents are now available for your review

Committee Observations and Findings

3048) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Rehabilitation and Renovation of Plant, Machinery and Equipment were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3049) The Committee recommended that:

The matter be resolved.

(v) Purchase of Specialized Plant, Equipment and Machinery

3050) Note 9 to the financial statements reflect an amount of Kshs.457,597,704 relating to purchase of specialized plant, equipment and machinery. The expenditure includes an amount of Kshs.255,970,129 that was not supported by payment vouchers and underlying documentation and whose authenticity could therefore not be ascertained.

Submission by the Accounting Officer

3051) The Accounting Officer submitted that it was true that in the figure of Ksh.457,597,704 there was an amount of Ksh.255,970,129 that wasn’t supported at the time of audit. The expenditure relates to purchase of bulk milk coolers, laboratory chemicals and specialized animal feeds consumed by animals during the drought period. We wish to state that a schedule of the same and copies of payment vouchers have now been attached for your verification.

Committee Observations and Findings

3052) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer, Auditor General and the documents availed with regard to the Purchase of Specialized Plant, Equipment and Machinery were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3053) The Committee recommended that:

1) **The matter remain unresolved.**
2) **The Auditor General should verify the documents and report back to the committee within three months upon tabling and adoption of this report.**

(vi) Purchase of certified Seeds, breeding Stock and Live Animals

3054) Included in the acquisition of assets figure of Kshs.1,106,493,864.00 and as also disclosed under Note 9 to the financial statements is an amount of Kshs.131,440,334 relating to purchase of certified seeds, breeding stock and live animals. However, out of the latter, an amount of Kshs.113,546,997 was not supported by and underlying documentary evidence including payment vouchers. Consequently, the validity and propriety of the expenditure could not be confirmed

Submission by the Accounting Officer

3055) The Accounting Officer submitted that it was true that as at the time of the audit, the documents relating to purchase of certified seeds, breeding stock and live animals had not been provided. We wish to state that that the AIEs disbursed are now available for verification.

Committee Observations and Findings

3056) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

4) In addition, the explanation given by the Accounting Officer and the documents availed with regard to the Purchase of certified Seeds, breeding Stock and Live Animals were not satisfactory; and
5) The matter therefore remained unresolved.

Committee Recommendations

3057) The Committee recommended that:
1) **Accounting Officers must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1114.2 Use of Goods and Services

3058) The statement of receipts and payments reflects an amount ofKshs.3,013,499,458 in respect of use of goods and services. The following anomalies were observed in regard to the expenditure;

(i) Foreign Travel

3059) Note 6 to the financial statements disclose that an expenditure of Kshs.25,930,521 was incurred on foreign travel and subsistence. Included in the foreign travel expenditure is an amount of Kshs.7,000,000 that was not supported with any documentary evidence. Consequently, the validity of the expenditure could not be confirmed.

Submission by the Accounting Officer

3060) The Accounting Officer submitted that it was true that a the figure of Kshs.7,000,000 had not been supported by documentary evidence during the audit process. The stated figure was an expenditure relating to RPLRP, a project that spends from the State Department, but domiciled in an out station. At the time of audit, the project was being audited by another team that was involved in vouching the same documents as required by the law. We wish to state that, the vouchers are now available for review.

Committee Observations and Findings

3061) The Committee observed and found that:
1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

4) However, the explanation given by the Accounting Officer and the documents availed with regard to the foreign travel were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3062) The Committee recommended that:

1) **Accounting Officers must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

(ii) Rental of Produced Assets

3063) As disclosed in Note 6 to the financial statements, included in the use of goods and services is an expenditure of Kshs.50,972,287 incurred on rentals of produced assets. The latter in turn includes an amount of Kshs.12,000,000 that was not supported with any documentary evidence and whose validity could therefore not be confirmed.

Submission by the Accounting Officer

3064) The Accounting Officer submitted that it was true that as at the time of the audit, the stated documents had not been provided. This was a part payment of an accumulated debt of Kenindia Insurance company. We wish to state that records are now available for your review.

Committee Observations and Findings

3065) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Rental of Produced Assets were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3066) The Committee recommended that:

1) **Accounting Officers must at all times ensure that he avails supporting**

documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

(iii) Insurance Costs

3067) Note 6 to the financial statements discloses that an expenditure of Kshs.254,853,630 was incurred on insurance, while in the previous year only Kshs.164,000 had been incurred on insurance costs. Out of the expenditure on insurance, Kshs.246,557,230 was not supported by payment vouchers and underlying documentation. Under the circumstances, the validity and propriety of the expenditure on insurance could not be confirmed.

Submission by the Accounting Officer

3068) The Accounting Officer submitted that it was true that as at the time of the audit, an insurance expenditure payable to Takafur Insurance company, V/No. 009for Kshs.246,557,230had not been supported. The cost relates to Kenya Livestock Insurance Programme. We wish to state that the documents are now available for review.

Committee Observations and Findings

3069) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Insurance were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3070) The Committee recommended that:

The matter be resolved.

(iv) Other Operating Expenses

3071) Note 6 to the financial statements disclose that an expenditure of Kshs.149,720,922 was incurred under operating expenses. Out of the total expenditure on operating expenses, an amount of Kshs.109,659,426 was not been supported by documentary evidence with payment vouchers and other documentation. Therefore, the validity and propriety of the expenditure totaling to Kshs.109,659,426 charged to other operating expenses could not be ascertained.

Submission by the Accounting Officer

3072) The Accounting Officer submitted that it was true that as at the time of the audit, the documents which relates to an AIE issued to Deputy County Commissioner-Kajiado Central (for compensation of cows impounded and auctioned by Tanzanian Government, Kenya National Farmers Federation and SDCP) had not been provided. We wish to state that the documents are now available for review.

Committee Observations and Findings

3073) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the other operating expenses were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3074) The Committee recommended that:

The matter be resolved.

1114.3 Compensation of Employees

3075) The statements of receipts and payments reflects an expenditure of Kshs.1,567,658,576 on compensation of employees and as disclosed under Note 5 to the financial statements includes; basic salary of permanent employees, basic wages of temporary employees and personal allowances paid as part of salary. The following anomalies were noted under compensation of employees.

(i) Basic Salaries of Permanent Employees

3076) Note 5 to the financial statements discloses an expenditure of Kshs.793,772,284 in respect of basic salaries of permanent employees. However, the Integrated Personnel and Payroll Database(IPPD) and supporting payment vouchers indicates that a total of Kshs.784,094,689.95 was spent on basic salaries of permanent employees. The resulting variance of Kshs.9,504,033 was not reconciled or explained. As a result, the accuracy of the basic salaries and permanent employee’s figure of Kshs.793,772,284 disclosed in the Notes to the financial statements could not be confirmed.

Submission by the Accounting Officer

3077) The Accounting Officer submitted that it was true that there was an unreconciled difference of Ksh.9,504,033.00 in basic salaries. We wish to state that the difference between the payroll system (IPPD) figures and figures presented in the accounts under Compensation of Employees was brought about by payments to employees which were not processed through IPPD system but instead they were paid directly by vouchers. These payments include leave commutation, salary advances, salary underpayment, salary arrears, promotion arrears and baggage allowances**.** A schedule of the same is now provided for your review.

Committee Observations and Findings

3078) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Basic Salaries of Permanent Employees were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3079) The Committee recommended that:

The matter be resolved.

(ii) Personal Allowances Paid as Part of Salary

3080) Note 5 to the financial statements further discloses an expenditure of Kshs.417,482,906 in respect of personnel allowances paid as part of salary. However IPPD schedules provided indicated that an amount of Kshs.415,518,365.75 was paid for the same. The resulting difference of Kshs.1,964,540.25 between the financial statements and IPPD schedules was not reconciled or explained. Consequently, the accuracy of the personal allowances paid as part of salary could not be confirmed.

Submission by the Accounting Officer

3081) The Accounting Officer submitted that it was true that figures Presented in accounts under compensation of employees differed with figures generated in IPPD. We wish to state that, the difference between the IPPD figures and figures presented in the accounts under Compensation of Employees was due to payments made to employees which were not processed through IPPD system but instead they were paid through vouchers thus they were captured in IFMIS System but not IPPD System. They include leave commutation, salary advances, salary underpayment, salary arrears, promotion arrears and baggage allowance**.** A schedule of the same is now provided for your review.

Committee Observations and Findings

3082) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Personal Allowances Paid as Part of Salary was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3083) The Committee recommended that:
The matter be resolved.

(iii)Basic wages of Temporary Employees

3084) Included in the employee costs and as disclosed in Note 5 to the financial statements is an expenditure of Kshs.356,576,947 in respect of basic wages of temporary employees. However, schedules provided to support the expenditure reflected an amount of Kshs.356,528,329 resulting in a difference of Kshs.48,618 between the two sets of records. No explanation or reconciliation was provided for the variance.

3085) In addition, included in the basic wages of temporary employees figure of Kshs.356,576,947 are amounts related to payments of interns casual wages. A comparison between the actual amounts paid to the interns as per the schedules provided and the amount that ought to have been paid as per payment vouchers for the year ended 30 June 2018 revealed the following anomalies:

Description	**Schedule Amount Kshs**	**Payment Vouchers amount Kshs**	**Payment voucher no.**	**Variance**
DVS-Casuals-May 2018	1,759,628.50	755,239.00	3167	1,004,389.50
DVS-Casuals-Nov 2017	1,898,151.95	602,981.00	1258	1,295,170.95
DLP Casuals-June 2018	117,711.70	41,928.00	3935	75,783.70
Rabbit Bleeding-Nov-2017	189,710.00	186,600.00	1326	3,110.00
Rabbit Bleeding-April-2018	181,901.10	186,600.00	3025	(4,698.90)
Ahiti- Kabete-Nov 2017	357,059.00	354,947.00	1296	2,112.00
Ahiti- Kabete-may 2018	192,820.00	357,059.00	3255	(164,239.00)
Bee keeping-June 2018	107,095.75	108,849.00	3379	(1,753.25)
Total	**211,269,142.15**	**209,059,267.15**		**2,209,875.00**

3086) The accuracy and completeness of the payments made in respect of the interns' casual wages could not therefore be confirmed under the circumstances.

Submission by the Accounting Officer

3087) The Accounting Officer submitted that it was true that payment schedules for temporary employees differed with figures presented in financial statements at the time of the audit. It is also true that figures of payments to interns in the financial statements differed with the payment vouchers for same period. We wish to state that:

3088) A payment schedule supporting the Ksh.356,576,947 has now been availed for your review. The variance is explained by the following tabulation:

DEPARTMENT	PAYMENT TYPE	MONTH	S/NO	V/NO	AMOUNT
DVS	Casuals	November,2017	1	1256	478,045.50
"	"	"	2	1257	439,754.00
"	"	"	3	1258	602,981.00
"	Casuals	May,2018	4	3167	755,239.90
"	"	"	5	3168	479,860.95
"	"	"	6	3169	468,988.00
DLP	Casuals	June,2018	7	3385	66,036.00
"	"	"	8	3935	

Payment vouchers and schedules have now been availed for your review and verification**.**

Committee Observations and Findings

3089) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Basic wages of Temporary Employees were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3090) The Committee recommended that:

The matter be resolved.

(iv) Commutation of Leave for cash

3091) A review of payroll expenditure revealed that payment voucher numbers 4815 and 4816 dated 27 June 2018 were used to process commutation of leave days for cash Kshs5,172,870.33.No evidence was provided to indicate that the commutation of leave days was justified as per regulations. In addition, no evidence was provided to indicate that the commutation of leave days for cash was approved by the Accounting Officer. Consequently; the validity of the expenditure of Kshs.5,172,870.33 could not be ascertained.

Submission by the Accounting Officer

3092) The Accounting Officer submitted that it was true that at the time of Audit, no evidence was provided to justify commutation of leave as per regulations and authority from the Accounting Officer. We wish to state that the SDL authorized establishment is 3044 and In-post 1221.This resulted to continued staff shortages in technical areas and support units which subsequently caused cancellation of requests for leave due to exigencies of work. The staff establishments and Authority for leave payments is now available for your review.

Committee Observations and Findings

3093) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Commutation of Leave for cash were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

The matter be resolved.

1114.4 Transfers to Other Government Units

3094) The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an expenditure of Kshs.5,312,212,500 in respect of transfers to other government units. Included is Kshs.137,500,000 indicated to have been transferred to Agricultural Development Corporation(ADC). However, a review of available records held by ADC revealed that the amount was not received by the latter. Consequently, the authenticity of the amount indicated to have been transferred to ADC is doubtful.

Submission by the Accounting Officer

3095) The Accounting Officer submitted that it was true that at the time of Audit Agricultural Development Corporation records appeared not to have received the disbursement of Kshs.137,500,000.We wish to state that Agricultural Development Corporation received the afore stated amount as per the attached signed copy of Inter-entity transfer Confirmation.

Committee Observations and Findings

3096) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Transfers to Other Government Units was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3097) The Committee recommended that:

The matter be resolved.

1114.5 Other Grants and Transfers

3098) The statement of receipts and payments and as also disclosed in Note 8 to the financial statements reflects an amount of Kshs.67,250,425 relating to other grants and transfers. However, no documentary evidence or explanation was provided as to the nature of the grant and to whom it was transferred. Consequently, the validity of the grant could not be ascertained.

Submission by the Accounting Officer

3099) The Accounting Officer submitted that it was true that no documentary evidence had been provided for other grants and transfers disbursed as at the time of audit. This was caused by delay in delivery of records from the project head office which was based in Nakuru. The amount of ksh.67,250,425 relates to disbursement made to farmers groups for various dairy farming projects which included production, marketing and purchasing of milk equipment's as authorized by the National Steering Committee. We wish to state that a schedule for disbursement of refunds of the various groups, authority letter and the audited financial statements for the project are now attached for your review.

Committee Observations and Findings

3100) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents

availed with regard to the Other Grants and Transfers was satisfactory; and

5) The Committee marked the matter as resolved.

Committee Recommendation

3101) The Committee recommended that:

The matter be resolved.

1114.6 Other expenses

3102) The statement of receipts and payments and disclosed in Note 11 the financial statements reflects an amount of Kshs.4,068,297 under other expenses, which was similarly not supported with documentary evidence.

Submission by the Accounting Officer

3103) The Accounting Officer submitted that it was true that no documentary evidence had been provided for other expenses as at the time of the Audit. The amount of Ksh.3,706,377.45 was a statutory contribution by Kenya Government to the organization for animal Health (OIE) and Kshs.361,920.00 paid to Kenya School of Government in respect of three officers undertaking Supervisory Management Course. A schedule of payment vouchers have now been availed for your review.

Committee Observations and Findings

3104) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the other expenses was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3105) The Committee recommended that:

The matter be resolved.

1115. Misallocation of Expenditure

3106) A review of the State Department of Livestock Ledger and the financial statements revealed that the following items were wrongly charged and misallocated under Specialized Materials and Equipment instead of Insurance and Construction and Civil Works:

Date	Details	Amount Kshs
June 30 2018	Being direct payment for Insurance	20,920,328
June 30 2018	Being direct payment for civil works	15,749,073
June 30 2018	Being direct payment for civil works	11,493,073
June 30 2018	Being direct payment for civil works	12,306,690
June 30 2018	Being direct payment for civil works	12,343,126
Total		**72,812,290**

Submission by the Accounting Officer

3107) The Accounting Officer submitted that it was true that Insurance, Construction and Civil Works were wrongly charged in specialized materials and Equipment's. This anomaly has been addressed and we endeavor to avoid such in future.

Committee Observations and Findings

3108) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Misallocation of Expenditure was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3109) The Committee recommended that:

The matter be resolved.

1116. Cash and Cash Equivalents

3110) The statement of financial position as at 30 June 2018 reflects cash and cash equivalent a balance of Kshs.16,213,371. Which includes bank balances totalingKshs.15,684,906 as at 30 June 2018. However, the cashbook reflects a balance of Kshs.15,511,761 as of that date which differs with the figure of Kshs.16,213,371 reflected in the financial statements. The resulting difference of Kshs.701,610 was not reconciled or explained. Consequently, and in the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.16,213,371 could not be confirmed. In addition, bank reconciliation statement as at 30 June 2018 reflects reconciling items have been outstanding for over a year contrary as enumerated below:

Payments in cash book not recorded in Bank Statements			
Date	**Payee**	**Amount Kshs**	**Bank**
9/7/2017	Income tax (PAYE)	222,300.00	recurrent Acc
14/12/2017	Income tax (PAYE)	186,000.00	recurrent Acc
12/1/2018	Income tax (PAYE)	58,990.00	recurrent Acc
6/9/2017	Various individuals	7,559,132.00	Deposit Acc
	Total	**8,026,422.00**	
Receipts in bank statement not yet in the casebook			
Date	**Payee**	**Amount Kshs**	**Bank**
30.12.2017	Cash deposit	153,350.00	recurrent Acc
22/11/2017	No Payee is indicated	8,925,237.00	Deposit Acc
8/12/2017 ..	Payees not indicated	7,583,293.00	Deposit Acc
	Total	**16,661,880.00**	
Payments in bank statement not yet in cash book			
Date	**Payee**	**Amount**	**Bank**
5/7/2017	Withholding tax	128,740.00	Development Acc
Receipts in cash book not recorded in Bank Statements			
Date	**Payee**	**Amount**	**Bank**
2/12/2017	PS-SDL	194,724.00	Development Acc

No reason was given for failure to clear the long outstanding reconciling items

Submission by the Accounting Officer

3111) The Accounting Officer submitted that it was true that Cash and Cash equivalent balance in Financial Statement differed with Cash book balances at the time of Audit. We wish to state that the anormally was rectified in subsequent years with Bank Reconciliation done monthly. Further, we wish to state that the unreconciling items were composed of under-casts/over-casts in cashbooks and double postings while loading statements from IFMIS system which require normal adjustments without financial implications. The updated Bank reconciliation statements for the three bank accounts have now been provided for your review.

Committee Observations and Findings

3112) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents

availed with regard to the Cash and Cash Equivalents was satisfactory; and

5) The Committee marked the matter as resolved.

Committee Recommendation

3113) The Committee recommended that:

The matter be resolved.

1117. Accounts Receivables

3114) The statement of financial position and as disclosed in Note 14 to the financial statements reflects accounts receivables totaling to Kshs.283,787,267.This amount comprises outstanding imprests- Kshs.5,112,265, District Suspense-Kshs.12,027,942 and project account – Kshs.266,647,060. However, no documentary evidence was provided for audit scrutiny to confirm to confirm the existence and authenticity of the balances. Consequently, the validity of these receivables could not be confirmed.

Submission by the Accounting Officer

3115) The Accounting Officer submitted that it was true that as at the time of audit, no documentary evidence had been provided for Accounts Receivables. We wish to state that at the time of the audit, the same documents were under review by another team of auditors. A schedule of imprests, district expenditure suspense and project returns are now attached and available for your review**.**

Committee Observations and Findings

3116) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Accounts Receivables wassatisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3117) The Committee recommended that:

The matter be resolved.

1118. Accounts Payable- Deposits

3118) The statement of receipts and payments reflects and as disclosed in Note 15 to the financial statements an amount of Kshs.15,413,228 relating to deposits. However, the amount was not supported with an analysis or any other documentation. Consequently, the validity and accuracy of the balance could not be confirmed.

Submission by the Accounting Officer

3119) The Accounting Officer submitted that it was true that no documentary evidence had been provided for Deposits as at the time of Audit. The deposit relates majorly to retention monies for various organizations as analyzed. We wish to state that schedule has now been availed for your review.

Committee Observations and Findings

3120) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the Accounting Officer failed to provide the Aged analysis and the detailed schedule disclosing the nature of the deposit with regard to the Accounts Payable- Deposits; and
5) The matter therefore remained unresolved

Committee Recommendation

3121) The Committee recommended that:

The matter be resolved.

1119. Outstanding Imprests

3122) The disclosure under Note 14 to the financial statements shows that imprests totaling Kshs.5,112,265 were outstanding as at 30 June,2018.The amounts includes and as recorded in the manual imprests register multiple imprests totaling Kshs.1,666,800 that had been issued to six officers before accounting for the previous ones in contravention of regulation 91(4) of the Public Finance Management (National Government) Regulations,2015. The manual imprests registers were also not updated on a continuous basis as a result; the accuracy of the outstanding imprests balance of Kshs.5,112,265 could not be confirmed.

Submission by the Accounting Officer

3123) The Accounting Officer submitted that it was true that the Financial Statements revealed that six officers were issued with more than one imprest. This was occasioned by the fact that surrenders of previous imprests which were in progress and in the last stage of surrender had not been cleared in the IFMIS due to system down time. We wish to state that all outstanding imprests have been surrendered and the manual registers updated; and are now available for your review.

Committee Observations and Findings

3124) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including the Aged analysis and the detailed schedule disclosing the nature of the deposit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Outstanding Imprests were satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3125) The Committee recommended that:
The matter be resolved.

1120. Pending Bills

3126)
(i) As disclosed under Note 17.1 and Annex 1 to the financial statements, the State Department for Livestock had pending bills totaling to Kshs.499,103,271 as at 30 June 2018 that were not settled during the year 2017/2018 but were instead carried forward to 2018/2019.Had the bills been paid and expenditure charged to the accounts for 2017/2018,the statements of receipts and payments for the year ended would have reflected a deficit of Kshs.280,930,305 instead of the surplus of Kshs.218,172,966 now shown. Failure to settle bills during the year in which they relate distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by the Accounting Officer

3127) The Accounting Officer submitted as follows:
It was true that the State Department for Livestock had pending bills totaling Kshs.499,103,271 as at 30 June 2018 which were carried forward to 2018/2019. The bills were as a result of inadequate exchequer as at the close of the financial year. We further state that, had the bills been paid in the 2016/2017financial year, no deficit would have risen because over-cast in the expenditure totals were discovered and adjustment hone to remove the erroneous double posting of payments. We wish to report that the Department was able to settle the bills in the FY 2017/18.

3128)
(ii) Further, included in the figure of the pending bills of Kshs.499,103,271 is an amount of Kshs.14,300,000 payable to a company that was awarded a contract on 12 February 2016 for the proposed completion of Biosafety Level 3 Laboratory at Kabete Veterinary Farm at a contract sum of Kshs.69,012,866.

3129) The projects initial completion date was 20/12/2016 which was subsequently revised to 30/5/2018.However, at the time of the audit; the works had not been completed and hand over to State Department for Livestock. No satisfactory reason was given for failure to complete the works within the period stipulated in the contract.

Submission by the Accounting Officer

3130) The Accounting Officer submitted that it was true that as at the time of audit, the construction of Bio-safety Laboratory had not been completed nor explanation given over the same. The construction of Biosafety Level 3 laboratory at Kabete Veterinary Farm started in 2012/ 2013 financial year at initial estimated cost of KSh.700 million. This has since been varied to KSh.830 million following inclusion of expanded scope of works and supportive infrastructure. The first main contractorM/s Wamunyoro Investment Limited terminated the contract on mutual agreement with the State Department for Livestock citing prolonged delay in payment on 1st September, 2015. The Main works were re-advertised and M/S Pearltek Kenya Limited, was awardedin September2016**.**M/S Pearltekhad its contract extended twice due to delayed payments which was partly attributed to inadequate supervision by Public Works department and absence of the contractor from the site. The contractor completed and handed over the building on 24th June, 2020.

3131) The project also had six other specialized contractors whose works depended on successful completion of the main contractor's works. The following are the specialized contractors and their level of completion:

S/NO	FIRM	CONTRACT AWARDED	STATUS
1	M/S Jerrison Electrical Agencies CCTV	Access Control installation works	Completed
2	M/S Jerrison Electrical Agencies EPABX	Structured Cabling installation works	Completed
3	M/s Jumba Engineering Services	Electrical Installation Works	Completed
4	M/S Volcanic Works Limited	Plumbing, Drainage and water work	being re-advertised
5	M/S Axis Engineering Services Limited	Air conditioning and Mechanical Ventilation	being re -advertised
6	M/s Axis Engineering Services Limited	Cold room installation works	being re- advertised

3132) Works being re advertised, is as a result of failure by contracted firms awarded to honour contract signed which could partly be attributed to delayed works by the main contractors.

Committee Observations and Findings

3133) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided

for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including the Aged analysis and the detailed schedule disclosing the nature of the deposit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, all the Pending Bills had since been paid and settled in the year 2018/2019; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3134) The Committee recommended that:

The matter be resolved.

1121. Other Unexplained Variances

3135) The summary statement of appropriation for recurrent, development and combined reflects a final budget and total actual expenditure of Kshs.14,216,918,610 and Kshs.11,077,643,258,respectively.However,the summary of budget performance indicates a total allocation of Kshs.11,184,806,110 and total actual expenditure of Kshs.9,968,659,827 for the year ended 30 June 2018, and thus, resulting in unexplained difference of Kshs.3,032,112,500 and Kshs.1,108,983,431,respectively between the two sets of records**.**

Submission by the Accounting Officer

3136) The Accounting Officer submitted that it was true that there is a variance between the two figures. This is because in preparing the Statement of the Budget Performance, the only receipts considered were Exchequer receipts. We wish to state that Ksh.3,032,112,500 constitute the Final budgeted figure for: Proceeds for Domestic and Foreign Grants(387,000,000),Proceeds from Foreign Borrowing(2,624,000,000) and Proceeds from sale of Assets (21,112,500). The same case applies to the expenditure variance of Ksh.1,108,986,431.The Statement of Budget Performance have since been corrected to include the other receipts.

Committee Observations and Findings

3137) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including the Aged analysis and the detailed schedule disclosing the nature of the deposit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Other Unexplained Variances was satisfactory; and

5) The Committee marked the matter as resolved.

Committee Recommendation

3138) The Committee recommended that:
The matter be resolved.

1122. Land

3139) The financial statements reflects fixed assets with a balance of Ksh.1,048,739,963 as at 30 June 2018.However,the balance excludes undetermined value of land. As a result, the completeness and accuracy of the assets balance of Ksh.1,048,739,963 could not be ascertained.

3140) As reported in previous years, the Government, through Gazette Notice No. 890 dated 5 March 1957, allocated 1,400 acres of land in Ngong, Kajiado County, to the Department of Veterinary Services for construction of a Veterinary Training School, establishment of a veterinary farm, and installation of related facilities. Information and documents available indicate that the land measures 1,500 acres.

3141) Further, information and records at the Ministry of Agriculture, Livestock and Fisheries and Ministry of Land and Physical Planning, indicate that some Government agencies and private organizations have irregularly taken possession of 509 acres of land. The Department has to-date not obtained title of ownership of the land from the Ministry of Land and Physical Planning.

3142) In the above circumstances, the ownership and actual size of the land cannot be confirmed.
As a result, the completeness and accuracy of the assets balance of Ksh.1,048,739,963 could not be ascertained.

Submission by the Accounting Officer

3143) The Accounting Officer submitted that it was true that the financial statement as at the time of the Audit reflects fixed assets with a balance of Kshs.1,048,739,963. We wish to state that the Gazette notice No. 890 dated 5th March,1957 estimates the above farm land to be 1400 acres, but other documents available indicate the size of the land as 1500 acres. It’s also noted that records available from the Ministry of Lands, including green cards; the original parcel, Ngong/Ngong/1959 which was approximately 1400 acres was closed on 14th March, 1975 and three parcels of land were created as follows:

i. Ngong/ Ngong/ 2627- Veterinary Farm(remainder)
ii. Ngong/Ngong/2628- halal meat products - 0.5946 HA
iii. Ngong / Ngong/ 2629 – Halal meat products – 3.990 HA

3144) Further divisions were also done on the remainder Ngong / Ngong/2627 into two parcels by the Director of survey on the 21st May, 1997.

i. Ngong/ Ngong/ 21399- which was taken by the police service – 48.70 HA and
ii. Ngong/ Ngong/ 21400 –allocated to Veterinary Farm Ngong – 541.01 HA

3145) From the above information and survey done, the actual acreage for Ngong Veterinary Land subdivided from Ngong Veterinary Farm Land, is 594.2946 HA (1468.50196 Acres) composed of:

i. Ngong/ Ngong/ 2628 – 0.946 HA
ii. Ngong / Ngong/ 2629 - 3.990 HA
iii. Ngong/ Ngong/ 21399 – 48.70 HA
iv. Ngong/ Ngong/ 21400 – 541.01 HA

3146) The Government and Private organizations have taken position of approximately 509 Acres, the Ministry of Agriculture, Livestock and Fisheries has forwarded these details to the National Land Commission to investigate with a view of repossessing the irregularly allocated land. In the same report the Ministry has requested the National Land Commission to provide the Title Deed for Ngong Veterinary Land to avoid such irregular encroachment in future.

Committee Observations and Findings

3147) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including the Aged analysis and the detailed schedule disclosing the nature of the deposit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the land was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3148) The Committee recommended that:

The matter be resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1123. Budget Performance

3149) The summary statements of appropriation for recurrent, development and combined reflects several revenue and expenditure heads/items with huge variances between the budgeted and actual expenditure amounts.

3150) The overall under-expenditure during the year under review was 22% which means that the State Department did not execute some of its intended activities in the year and thus failing to deliver services effectively to the public. No satisfactory reasons were provided for the failure by the State Department to implement the budget as approved by the National Assembly and for the above noted variances.

Submission by the Accounting Officer

3151) The Accounting Officer submitted that it was true that during the 2017/2018 Financial Year budget performance had an under expenditure of 22%. We wish to state that the under expenditure was as a result of delayed logistics by suppliers on shipment and delivery of milk bulking equipment under the Livestock Value Chain Support Project. The project had a gross budget of KShs.2,030,500,000 (Loan AIA KShs.1.91 Billion, which was not full spent**.** The first consignment was shipped in July 2018 and cleared in September, 2018, In addition, there were changes done on procurement of the type of vaccines by Regional Pastoral Livelihood Resilience Project in response to weather changes thus attributing to under absorption.

Committee Observations and Findings

3152) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including the Aged analysis and the detailed schedule disclosing the nature of the deposit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Budget Performance was satisfactory; and
5) The Committee marked the matter as resolved.

1124. Disproportionate comparative increase in expenditure

3153) An overview review of the statement of receipts and payments expenditure during the year revealed several expenditure items that recorded a disproportionate increase compared to the previous financial year.

3154) A further scrutiny on the expenditure on use of goods and services and acquisition of assets under specific sub-components revealed following material disproportionate increase compared to the previous financial year:

3155) Although the above amounts had been budgeted for, the increase in expenditure does not appear to correlate to the other expenditure items under the Ministry. In addition, no proper explanation has been given for the significant increases.

Submission by the Accounting Officer

3156) The Accounting Officer submitted that it was true that several items recorded a disproportionate increase in use of goods compared to the previous financial year. We wish to state that the budgetary allocations were revised in response to drought mitigations. This increased allocation on supplies for production and veterinary supplies. In addition, related costs on coordination and logistical support for drought mitigation activities were increased.

The drought funds were distributed in the various items under use of goods. Further, the cost on insurance increased following implementation/roll out of Kenya Livestock Insurance Project. The previous year had captured the budget items under Kenya Livestock Insurance Project as transfers and grants.

3157) In Acquisition of assets, funding of key projects under the State Department i.e. Regional Pastoral Livelihood Resilience Project, Smallholder Dairy Commercialization Programme and Livestock Value Chain Support Project also increased, which resulted in subsequent increase in expenditure under specialized equipment**.** The revised budgetary allocations in response to drought mitigations incorporated purchase of breeding stock and ICT software.

Committee Observations and Findings

3158) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents including the Aged analysis and the detailed schedule disclosing the nature of the deposit in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer and the documents availed with regard to the Disproportionate comparative increase in expenditure was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendation

3159) The Committee recommended that:

The matter be resolved.

1125. Pending Legal Litigation

3160) A review of legal files revealed that the State Department for Livestock had two protracted legal suits which have led to significant outstanding bill, interest and penalties. The two cases can be summarized as follows:

- Halal Meat Products Limited Vs Ministry of Agriculture, Livestock, Fisheries and Irrigation: State Department for Livestock- High Court Civil Case No.1655/1986 whose court determination amounted to Kshs.5.242 Billion and out of court negotiations final amount of Kshs.4 Billion after cap on interests. However, Contract documents for Halal Meat Product Limited were not provided for audit review.

Submission by the Accounting Officer

3161) The Accounting Officer submitted that it was true that there were two Pending Legal litigation against the State Department. The state Department wish to state that:

- Halal is a protracted legal suit whose court determination amounted to Kshs.5.242 Billion and out of court negotiations final amount of Kshs.4 Billion after cap on interests. This issue has been submitted to the National Treasury (Pending Bills Closing Committee) for final settlement. On 23rd March 2020 and 3th February 2020, through the draft budget FY2020/2021 and Medium term budget estimates and FY2019/20 Supplementary Estimates No.2, requested an allocation of Ksh.200 million to show commitment on payment on the negotiated amount. Copy of request to the National Treasury and CS brief on Halal Meat Products Limited is now attached for your review**.**

3162) The contract agreement for consultancy on designs for Mifugo house was completed on 23rd March, 2020 and 13th February, 2020, through the draft budget FY2020/2021 and Medium term budget estimates and FY2019/20 Supplementary Estimates No.2, the department requested an allocation of Ksh.25.95 million as final payment of accrued fees to settle payments on architectural designs. Copy of request to the National Treasury and Mifugo house design contract is now attached for your review.

Committee Observations and Findings

3163) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in relation to Mifugo House in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) In addition, the explanation given by the Accounting Officer and the documents availed with regard to the Pending Legal Litigation were not satisfactory; and
5) The matter therefore remains unresolved.

Committee Recommendation

3164) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

3165) <u>The Committee observed that Paragraph 1126 on effectiveness of internal controls, risk management and governance</u> <u>were discussed and found as satisfactory.</u>

VETERINARY SERVICES DEVELOPMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1127. Employees' Costs

3166) The employees' costs of KSh.590,258 reflected in the statement of financial performance for the year ended 30 June 2018 were not supported by payrolls or schedules showing the names and particulars of the employees who were paid. As a result, the validity, completeness and accuracy of the expenditure could not be ascertained.

Submission by the Accounting Officer

3167) The Accounting Officer submitted that it as true that the employee's cost of Kshs.590,258 reflected in the statement of financial performance for the year ended 30 June, 2018 were not supported by payrolls or schedules showing names and particulars of employees who were paid during the time of Audit. These schedules have so far been retrieved and files and were availed for audit verification.

Committee Observations and Findings

3168) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; and
2) The explanation given by the Accounting Officer and the supporting documents availed were persuasive; and therefore Committee marked the matter resolved.

Committee Recommendations

3169) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1128. Property, Plant and Equipment

3170) The property, plant and equipment balance of KSh.34,457,123 as at 30 June 2018 reflected in the statement of financial position. Consequently, the completeness and accuracy of the property, plant and equipment balance of KSh.34,457,123 could not be confirmed.

Submission by the Accounting Officer

3171) The Accounting Officer submitted that it as true that there was property, plant and equipment balance of Kshs. 34,457,123 as at 30th June 2018 reflected in the statement of financial position. This will be possible with the provision of Assets register which the management is in the process of compiling.

Committee Observations and Findings

3172) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; and
2) The explanation given by the Accounting Officer and the supporting documents availed were persuasive; and therefore Committee marked the matter resolved.

Committee Recommendations

3173) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1129. Inconsistencies in Presentation of Financial Statements

3174) A review of the Fund's financial statements for the year ended 30 June 2018 revealed that various budget line items were inconsistent with those indicated in the accompanying notes to the financial statements, statement of financial performance and other financial statements. Under the circumstances, comparison and analytical reviews on item basis could not be carried out on the revenue and expenditure items reflected in the statement of financial performance vis-à-vis the revenue and expenditure items reflected in the statement of comparison of budget and actual amounts.

Submission by the Accounting Officer

3175) The Accounting Officer submitted that it as true that a review of the funds financial statements for the year ended 30thJune 2018 revealed that various budget line items were inconsistent with those indicated in the accompanying notes to the financial statements, statement of financial performance and other financial statements. Under the circumstances, comparison and analytical reviews of item basis could not be carried out on the revenue and expenditure items reflected in the statement of financial performance vis a vis the revenue and expenditure items reflected in the statement of comparison of budget and actual amounts. This was an error which has been rectified so far as per the revised financial statements.

Committee Observations and Findings

3176) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the

complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; and
2) The explanation given by the Accounting Officer and the supporting documents availed were persuasive; and therefore Committee marked the matter resolved.

Committee Recommendations

3177) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1130. Budget Performance and controls

1130.1 Budget under- Performance

Analytical review performed on the approved budget versus actual amounts for the year ended 30 June 2018 revealed material variances between the budgeted and actual amounts representing under-performance of the budget. There was under collection of revenue by 54% and under expenditure of 57%. No explanations were provided for the Fund's failure to meet the revenue targets or to incur the expenditure fully on some of the items as approved in the budget.

3178) Further, contrary to the guidelines issued by the Public Sector Accounting Standards Board, the Fund failed to provide explanations in the notes to the financial statements for material variances above / below +/- 10% between the budgeted and actual amounts for the year ended 30 June 2018.

Submission by the Accounting Officer

3179) The Accounting Officer submitted that it as true that the analytical review performed on the approved budget versus actual amounts for the year ended 30th June 2018 revealed material variances between the budgeted and actual amounts representing under performance of the budget. This is explained as follows;

(i) Revenue under collection

3180) The explanation of material variance in revenue collection by the Veterinary Services Development Fund (VSDF) is as follows: -

- Due to court injunction restricting the Director of Veterinary Services (DVS) from levying cess from tanners which the fund had anticipated to collect a substantial amount of revenue from hides and skin levies, this therefore affected the overall revenue collected. The VSDF management has since increased the surveillance, staff sensitization and monitoring of revenue collection at the point of collection. This is through frequent visits and provision to officers with requisite materials (stationeries, computers) for proper record keeping.

(ii) Budget Under Expenditure

3181) The explanation of material variance in budget under expenditure collection by the Veterinary Services Development Fund (VSDF) is as follows: -

- Some activities planned during the period under review were not undertaken and deferred to FY 2018/2019 due to livestock disease outbreaks like Rift Valley Fever during the period. Availability of cable wifi in office reduced the need to purchase airtime for communication in addition to reduced postage of letters due to preference to use emails. There was reduction in the number of workshops, meetings and conferences hence reduced catering services.
- Outbreak of livestock disease such as Rift Valley Fever led to restriction of movement of livestock in affected counties and hence planned programme in these areas could not be implemented.
- The budgeted amount for payment of casual was supposed to supplement the recurrent expenditure; however the recurrent expenditure was able to cater for substantial part of the casual worker wages within the financial year.

(iii) Explanations on Material variances as per the PSASB

3182) The statement of comparison of budget and actual amounts has been revised accordingly and explanations for material variances above/below +/-10% provided.

Committee Observations and Findings

3183) The Committee observed and found that:

1) The Accounting Officer failed to ensure ensure there was complete compliance to the IPSAS standards of reporting issued from time to time by the Board; and
2) The explanation given by the Accounting Officer was satisfactory; and therefore Committee marked the matter resolved.

Committee Recommendations

3184) The Committee recommended that:

1) **The National Treasury being the custodian/secretariat of the Public Sector Accounting Standards Board should at all times ensure there is complete compliance to the IPSAS standards of reporting issued from time to time by the Board.**
2) **Accounting Officers must ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring goods and services and that, in the case of goods, adequate arrangements are made for their custody, safeguarding and maintenance pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**

1130.2 Disproportionate Comparative Increase in Expenditure

3185) A review of the statement of financial performance and statement of financial position revealed some revenue and expenditure items that recorded a disproportionate increase compared to the previous year.

3186) A further scrutiny of revenue and expenditure items on specific sub-components revealed disproportionate increase (decrease), over/ (under) 100% compared to the previous financial year. No proper explanation was given for the significant increases or decreases indicated above.

Submission by the Accounting Officer

3187) The Accounting Officer submitted that it as true explained the disproportionate comparative increase in expenditure as follows: -

Description	**2017-2018**	**2016-2017**	**Variance**	
Revenue – Rendering of services	Kshs	Kshs	Amount (kshs)	%
Hides and Skins	5,559,422	829,515	4,729,907	570%
Disease surveillance, Risk management controls	13,210,045	1,249,350	11,960,695	957%
Veterinary Laboratories	217,575	0	217,575	0
Other Veterinary Services	80,913	0	80,913	0
Repairs and Maintenance				
Equipment	223,446	86,531	136,915	158%
Vehicles	1,972,759	964,749	1,008,010	104%
General expenses				
Advertising	925,819	186,750	739,069	396%
Other operating expenses	0	2,960,422	-2,960,422	-100%
Telecommunication	187,720	0	187,720	0

(i) Revenue

3188) Increased in revenue collected in FY 2017/2018compared to FY 2016/2017 is attributed to the following reasons: -

a) The Directorate increased the surveillance and monitoring of revenue collection at the point of collection. This was through frequent visits and provision to officers with requisite materials (stationeries, computers) for proper record keeping.
b) The Directorate sensitize staff on prompt revenue collection and surrender.
c) Implementation of online import/export certification system through Kenya Single Window System

(ii) Expenses

a) Livestock disease outbreaks led to increased disease surveillance and sample collection hence increased expenses in laboratory diagnostic services, vehicle and plant maintenance.
b) There was increased export of foods of animal origin especially meat. This led to increased use of veterinary certificates and hence increased cost of printing these certificates covered under Printing, Advertising and information supply sub vote.
c) The provision of internet in the Directorate of Veterinary Services required some funds for the purchase of airtime to ease communication in FY 2017/2018 budget.

Committee Observations and Findings

3189) The Committee observed and found that the matter was for information and noting by the Committee.

1131. Non- Compliance with Procurement Laws

3190) Section 54(1) of the Public Procurement & Asset Disposal Act, 2015, provides that, "no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed." However, an examination of a sample of payment vouchers and supporting documents relating to procurement of goods and services for the year under review revealed incidences of splitting purchases orders contrary to this requirement as shown below:

1131.1 Specialized Material and Services

Date	**Ref:**	**Amount** KSh.
29-06-2018	33525	900,000
29-06-2018	33526	900,000
29-06-2018	33527	992,815
29-06-2018	33528	700,000
29-06-2018	33529	700,000
29-06-2018	33530	704,604
Total	**4,897,419**	

Submission by the Accounting Officer

3191) The Accounting Officer submitted that it as true according to the examination of a sample of payment vouchers and supporting documents relating to procurement of goods and services for the year under review as per audit revealed incidences of splitting purchases orders contrary to this requirement.

3192) However, the various divisions within the Directorate had small amounts of money allocated to them for procuring of goods and services in purchases orders in question. This called for various divisions to make their orders as per their allocations. To alleviate the challenge, the Directorate consolidated all common items that were requested by various sections and raised a single requisition for these items. The requisitions which were raised for the various divisions were paid via different cheques as analyzed.

3193) The Fund management was therefore making payments on behalf of various divisions and thus was not in breach of the said law i.e. not in non-conformity with the Public Procurement and Asset Disposal Act 2015.

Committee Observations and Findings

3194) The Committee observed and found that the matter was for its information and noting.

1131.2 Office and General Supplies

Date	**Ref:**	**Amount** KSh.
28-02-2018	33407	1,640,000
28-02-2018	33408	1,236,250
Total	2,876,250	

Under the circumstances, the Fund was in breach of the law.

Committee Observations and Findings

3195) The Committee observed and found that the matter was for its information and taking note.

3196) The Committee observed that Paragraph 1132 to 1135 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

34.0. STATE DEPARTMENT FOR FISHERIES AND THE BLUE ECONOMY

FINANCIAL STATEMENTS FOR VOTE 1164

Prof. Michemi J. Ntiba, the Principal Secretary and Accounting Officer for the State Department of Fisheries and the Blue Economy (Vote 1164) appeared before the committee on 11th November 2020 to adduce evidence on the Audited Financial Statements for the State Department of Fisheries and the Blue Economy (Vote 1164) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Martin K. Wamwea - Chief Finance Officer
2. Mr. James Wachira Thuita - Head of Accounting Unit
3. Mr. Henry H. Ondara - Director Accounting Unit

And submitted as follows:

1136. Presentation and Disclosure of Proceeds from Foreign Borrowings

3197) The statement of receipts and payments for the year ended 30 June 2018 reflects a nil amount under proceeds from foreign borrowings. However, the special accounts statements reflect payments relating to two projects under the Kenya Marine Fisheries Research Institute amounting to KSh.62,012,285.18 as detailed below:

Project Name	**Credit/Grant No.**	**Amount in US $**	**Amount in KSh.**
Kenya Marine Fisheries & Social Economic Development Project	Cr. V1310-KE	199,950	20,186,952
Kenya Coastal Development Project	TF 097578	46,494	4,814,919
Kenya Coastal Development Project	Cr. 4801-KE	357,544.44	37,010,415
Total		**62,012,285**	

3198) A review of available records revealed that the whole amount of KSh.62,012,295 was received by the State Department of Fisheries and the Blue Economy. However, of the total of KSh.41,825,333 received under the Kenya Coastal Development, only KSh.40,000,000 was transferred to Kenya Marine Research Institute, as disclosed under Note 5 to the financial statements. The remainder of KSh.1,825,333.18 due to the Project was spent on activities unrelated to the Project.

3199) In addition, the amount KSh.20,186,952 due to a new Project -Kenya Marine Fisheries & Social Economic Development Project, was spent by the Ministry apparently due to lack of the Project`s Bank Account. No satisfactory reason has been given for failure to open an account on behalf of the project.

Submission by the Accounting Officer

3200) The Accounting Officer submitted that the whole amount of KSh.62,012,295 was received by the State Department of Fisheries and the Blue Economy. The USD 404,038.44

equivalent of Kshs.41,825,333.18 were disbursed to Kenya Marine Research Institute (KMRI) through the Kenya Coastal Development Project (KCDP) but the funds were not spent. The whole amount was refunded to World Bank.

3201) The Accounting Officer also admitted that the State Department did not open and transfer Ksh.20,186,952 due to the new project Kenya Marine Fisheries and Socio – Economic Project.

3202) The State Department wrote to the National Treasury to seek authority to open and operate a Ksh account for Kenya Marine Fisheries and Socio-Economic Project on 28th March, 2018 and authority was granted on 4th April 2018. However, due to re-organization of Government, the State Department of Fisheries and the Blue Economy was renamed to "State Department for Fisheries, Aquaculture and the Blue Economy". Because of this, the State Department was not able to operate the old account under the name State Department for Fisheries and the Blue Economy.

3203) As a result of these changes, the Central Bank of Kenya advised the State department to close the old account and open a new account as per the re-organization. By the end of June 2018, the account had not been opened and therefore the funds lapsed in normal old development account of State Department of Fisheries and the Blue Economy.

3204) During financial year 2018/2019, the project account was opened and the Kshs.20,186,952 was transferred by the State Department to the project account. The supporting Documents were availed for perusal by the Committee.

Committee Observations and Findings

3205) The Committee observed and found that:

1) An amount of USD 404,038.44 equivalent of Ksh.41,825,333.18 was disbursed to Kenya Coastal Development Project (KCDP) but the funds were not spent and were refunded to World Bank;
2) A new project account had been opened after the reorganization of the Government Ministries and Ksh.20,186,952 was transferred to the said new account; and
3) The Committee marked the matter as resolved.

Committee Recommendation

3206) The Committee recommended that:

The Accounting Officer should ensure timely transition of accounting matters concerning the MDA where there is change affected by reorganization of the National Government.

1137. Acquisition of Assets

3207) The statement of receipts and payments reflects an amount of KSh.116,378,882 under acquisition of assets. However, this amount differs with the corresponding amount of KSh.37,732,780 disclosed under Note 8 to the financial statements. No explanation was given for the difference.

3208) Consequently, the accuracy of the amount of KSh.116,378,882 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3209) The Accounting Officer admitted that the statement of receipt and payment reflected an amount of Kshs.116,378,882.00 while note 8 reflected an amount of Ksh.37,732,780.00 that resulted to unexplained difference of KSh.78,646,102.00. The Ksh.78,646,102.00 was AIE's issued to the National Fisheries Regional offices which were erroneously captured as assets. A copy of reinstated Financial Statement was tabled for perusal by the Committee.

Committee Observations and Findings

3210) The Committee observed and found that:

1) The Financial Statements had been revised to reflect the correct position as reviewed and verified by the Auditor General, and
2) The Committee marked the matter as resolved.

Committee Recommendation

3211) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

3212) The Committee observed that Paragraph 1138 to 1142 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

35.0 STATE DEPARTMENT FOR INVESTMENT AND INDUSTRY

FINANCIAL STATEMENTS FOR VOTE 1172

Dr. Francis O. Owino, the Principal Secretary and Accounting Officer for the State Department for investment and industry (Vote 1172) appeared before the committee on 30th November 2020 to adduce evidence on the Audited Financial Statements for the State Department for Trade (Vote 1093) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Ms. Ruth Wanyonyi - Head of Accounting Unit
2. Mr. Nicholas Kamau - Chief Finance Officer
3. Mr. Waweru Makori - Head of Supply Chain Management Services

Basis for Qualified Opinion

1143. Accounts Receivables – Outstanding Imprests and Clearance Accounts

3213) The statement of assets and liabilities as at 30 June 2018 reflects receivables balance of KSh.40,453,082. This balance includes KSh.38,298,082 relating to the District suspense which has not been adequately supported with the relevant supporting documents or schedules. In the circumstances, it was not possible to confirm the accuracy of KSh.38,298,082 for district suspense accounts balance as at 30 June 2018.

Submission by the Accounting Officer

3214) The Accounting Officer submitted that the amount of Kshs.38,298,082 that appeared under note 12 of 2017/2018 relates to impests issued to county industrial development officers in the former districts/current sub-county that had not been surrendered as at 30th June 2018. During the year ended 30th June 2019, the imprests were surrendered and the surrender documents availed to the auditors for audit review.

Committee Observations and Findings

3215) The Committee observed and found that:

1) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
2) The documents confirming the accuracy of KSh.38,298,082 for district suspense accounts balance as at 30 June 2018 were later provided for audit review and verifications to the satisfaction of the Auditor General; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3216) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1144. Transfer to Other Government Units and Other Grants and Transfers

3217) The financial statements as at 30 June 2018 indicate that the State Department transferred KSh.3,835,242,202 and KSh.140,771,700 under transferred to other government entities and other grants and transfers respectively all totaling to KSh.3,979,013,902. However, comparison with financial statements of the respective Government units revealed that only a total of KSh.3,857,791,878 was received resulting in unexplained and unreconciled variance of KSh.121,222,024.

3218) In the absence of any reconciliation, it has not been possible to confirm the accuracy and validity of the figure for transfer to other Government units and other grants and transfers as at 30 June 2018.

Submission by the Accounting Officer

3219) The Accounting Officer submitted that the variance of Kshs.121,222,024 which was noted in the audit report for 2017/2018 was spent on expenditure of other line items but erroneously charged under the transfers to other government agencies component. Adjustment have been done and necessary reconciliations done during the audit for 2019/2020.The Department has also put in place necessary controls including regular reconciliation and expenditure reporting has been instituted to ensure this does not recur.

Committee Observations and Findings

3220) The Committee robserved that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
2) The the explanation given by the Accounting Officer and the supporting documents availed were persuasive; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3221) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1145. Cash and Cash Equivalents

3222) The statement of assets and liabilities as at 30 June 2018 indicate a balance of KSh.906,492,460 under cash and cash equivalents which includes bank balances amounting to KSh.906,420,029. However, examination of the board of survey reports revealed cash book balances amounting to KSh.968,343,742 as at 30 June 2018. The resulting variance of KSh.61,923,713 has not been explained. In addition, no signed or approved bank reconciliation statements for the year ended 30 June 2018 were availed for audit review.

3223) Further, and as previously reported in 2016/2017, the statement of assets and liabilities reflects cash and cash equivalents balance of KSh.2,991,694 which comprise of cash held at the Central Bank of Kenya under the recurrent, development, deposits and project accounts. However, the closing balance reflected in the Department's manual cash books do not agree with the balances disclosed in the financial statements as at 30 June 2017.

3224) No reasons have been provided for the variances between the two sets of records. Consequently, the accuracy of the cash and cash equivalents balance of KSh.906, 492,460 as at 30 June 2018 cannot be confirmed.

Submission by the Accounting Officer

3225) The Accounting Officer submitted that the bank reconciliation statements for the period 2016/2017 and 2017/2018 were all done during the year 2018/2019 and submitted to the external Auditors both in soft and hard copies. The bank reconciliation as at 30th June 2017 and as at 30th June 2018 that support the cash and bank balances in the financial statements for both financial years have been attached. The Issue of Cash &Bank balances was fully addressed during the audit of 2018/2019 and therefore does not appear in the audit report/certificate of 2018/2019**.**

Committee Observations and Findings

3226) The Committee observed and found that:

1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
2) The Accounting Officer belatedly submitted reconciliations to confirm the accuracy of the cash and cash equivalents balance of KSh.906, 492,460 as at 30 June 2018; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3227) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1146. Restatement of Opening Balances - Construction and Civil Works and Rehabilitation of Civil Works

3228) As previously reported in the 2016/2017, to the financial statements reflect an opening balance of KSh.175,750,000 under construction and civil works and KSh.42,499,998 under rehabilitation of civil works. However, the audited financial statements for the year ended 30 June 2016 reflected nil balance under construction and civil works and KSh.29,471,569 under rehabilitation of civil works. Journal entries passed to approve and support the re-statement of the opening balances have not been availed for audit verification and as a result, the accuracy and validity of the opening balances amounting to KSh.175, 750,000 for construction and civil works and KSh.42, 499,998 for rehabilitation of civil works cannot be confirmed. Further, the accuracy of the aggregate acquisition of assets opening balance of KSh.239, 702,126 for the year ended 30 June 2017 could not be confirmed.

Submission by the Accounting Officer

3229) The Accounting Officer submitted that this was an issue of typing error that affected two figures in the opening balances under acquisition of assets in the financial statements of 2016/2017. The error was noted after the audit certificate had been certified by the Auditor General. Since the Ministry prepare the financial statements in line with the International Public Sector Accounting Standards (Cash Basis), the error did not affect the financial statement balances of the year 2017/2018.

3230) The closing balances figure for the same component (Acquisition of assets) were certified correct in the financial statements of 2015/2016. Details of the referred components of the financial statements were filed under together with copies on the Acquisition of Assets for financial year 2015/2016 and 2016/2017.

Committee Observations and Findings

3231) The Committee observed and found that:
1) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
2) The explanation given by the Accounting Officer and the supporting documents availed were persuasive; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3232) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1147. Pending Bills

3233) Bills amounting to KSh.17,836,013 for the State Department were not paid in the financial year 2017/2018 but were instead carried forward to 2018/2019. Had those bills been paid and expenditure charged, the statement of receipt and payments would have reflected a surplus of KSh.922,884,472. Further, failure to settle the bills during the year to which they relate distorts the financial statements for that year and adversely affect the provisions for the subsequent year to which they form first charge.

Submission by the Accounting Officer

3234) The Accounting Officer submitted that all the pending bills for 2017/2018 were cleared during 2018/2019 and 2019/2020. Therefore, there is no historical pending bills not paid. All documents were given to the external auditors. The reason for the pending bills was due to lack of exchequer funding.

Committee Observations and Findings

3235) The Committee observed that:

1) The pending bills have since been fully paid and settled during the year 2018/2019; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3236) The Committee recommended that:

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills exist, they should form the first charge in the budget of the subsequent year.

Other Matters

Other Unresolved Matters in the Report for 2016/2017

1148. Irregular Procurement Practices

1148.1 Procurement of Consultancy Services

3237) As previously reported, the Ministry awarded consultancy services for provision of technical support to the Business Environment Delivery Unit to a private university at a cost of KSh.5,940,000 during the year ended 30 June 2015. The Ministry had invited bidders but only one application was received and considered responsive. The tender committee went ahead and awarded the tender to the only responsive bidder and in effect, used direct procurement method to procure the services. The invoice was issued before the LPO was raised. Further, whereas the contract agreement had indicated that the exercise was to be completed in three months, the service was delivered in less than a week and the consultant paid the contract sum of KSh.5,940,000. No evidence was availed to explain why the consultant commenced work before the contract was signed and awarded and for the use of direct procurement method which defeated fair competition and pricing of the tender award.

This matter was discussed by the Committee in the Report of 2016/2017

1148.2 Ease of Doing Business Improvement Programme – Phase II

3238) A private university was awarded contract for provision of consultancy services for Ease of Doing Business Improvement Programme – Phase II at a cost of KSh.5,127,200. Similarly, the invoice was raised before the two parties signed the contract agreement. Whereas the contract had stated under the special conditions that the duration of the contract would be four (4) months from the date of the contract, the service was completed in less than three weeks casting doubt as to whether the contract was mooted earlier and the tender committee only used as a rubberstamp to ratify a consummated transaction. Further, it has not been possible to confirm whether the relevant stakeholders were consulted about the service as there is no record of their participation.

This matter was discussed by the Committee in the Report of 2016/2017

1148.3 Irregular Consultancy Service Contract

3239) As previously reported, the Ministry procured consultancy services from a consultancy firm in the year ended 30 June 2015 for support of delivery of Kenya's Industrial Program. The contract was signed between the two parties on 18 November 2014 at a contract sum of KSh.348,000,000. Clause 2 of the contract agreement under sub-section 2.1 and 2.2 had indicated that the contract was to be effective from the date it was signed by both parties and that the consultant would begin carrying out the services upon signing of the contract or at such other date as may be specified in the service contract.

3240) Review of the process revealed that the consultant raised an invoice of KSh.69,827,963 on 11 November 2014 for Milestone 1(inception) even before the contract was signed between the two parties contrary to provisions of the Public Procurement and Asset Disposal Act, 2015. The signing of the contract was only intended to rectify the irregularity.

3241) Under the circumstances, the propriety of the expenditure of KSh.69,827,963 incurred on the contract in the year under review could not be confirmed.

This matter was discussed by the Committee in the Report of 2016/2017

1149. Irregular Re-allocation of Development Grants to Recurrent Expenditure

3242) As previously reported in, during the year ended 30 June 2015, the then Ministry of Industrialization and Enterprise Development sought and was granted authority by the National Treasury to transfer KSh.200 million to the implementation of textile development through the Micro and Small Enterprise Authority (MSEA). Available records however revealed that the Ministry instead instructed MSEA to utilise KSh.50 million to pay outstanding bills to various security firms which the Ministry had contracted to offer security services during and after the construction of the Constituency Industrial Development Centres (CIDCs) between 2012 and 2014. No evidence was availed to show whether approval of the National Treasury was sought and obtained to allow MSEA to divert KSh.50 million meant for the textile programme towards payment of security services. This resulted to diversion of development funds to recurrent expenditure without Treasury's approval and thus contravened the Public Finance Management Act, 2012.

<u>This matter was discussed by the Committee in the Report of 2016/2017</u>

1150. Textile and Leather Working Machinery and Equipment

3243) As previously reported, the then Ministry of Industrialization and Enterprise Development procured textile and leather workshop machinery and equipment for Kenya Industrial Training Institute in Nakuru worth KSh.214,899,000 during the year ended 30 June 2015. Although the inspection and acceptance certificate confirmed the goods to be of the right quantity and specification, the Ministry did not avail the commissioning certificate for audit to confirm that the machines and equipment were installed and put for use as planned. Review of the position during the year under review indicated that the machinery and other equipment have since been installed but are yet to be commissioned for operations.

3244) In the circumstances, it has not been possible to confirm that value-for-money has been obtained on expenditure of KSh.214,899,000 incurred by the Ministry on purchase of these industrial assets.

<u>This matter was discussed by the Committee in the Report of 2016/2017</u>

3245) <u>The Committee observed that Paragraph 1151 to 1155 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

36.0 STATE DEPARTMENT FOR COOPERATIVES

FINANCIAL STATEMENTS FOR VOTE 1173

Mr. Ali Noor Ismael, the Principal Secretary and Accounting Officer for the State Department for Cooperatives (Vote 1173) appeared before the Committee on 28th February 2020 to adduce evidence on the Audited Financial Statements for the State Department for Cooperatives (Vote 1173) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	Mr. Geoffrey N. Nyango'mbe	-	CCD
2.	Mr. Javel M. Murira	-	Ag. DCA
3.	Mr. Peter M. Mukobo	-	Cooperative
4.	Mr. Zaccheus Ndirangu	-	Principal Accountant
5.	Ms. Damaris Karimi	-	Principal Accountant SDC
6.	Mr. Joseph Kimwele	-	Chief finance officer

And submitted as follows:

1159. Non-compliance with Public Finance Management Act, 2012 – Management Supervision and Liquidation Fund

3246) Section 84 of the Public Finance Management Act, 2012 requires the Accounting Officer administering a national public fund to prepare and submit the financial statements of the fund at the end of each fiscal period to the Auditor-General for audit. Further, Rule 18 and 49 of the Co-operative Societies Rules, 2004 under Legal Notice No. 123, established the Management and Supervision Fund and the Cooperative Liquidation Account respectively and entrusts the Commissioner of Cooperatives with their management and administration. As observed in the previous year, the Department has not prepared and submitted for audit, separate financial statements of the Management and Supervision Fund as well as the Liquidation Account for the six financial years ended 30 June 2013 to 30 June 2018 to enable the Auditor-General provide an opinion on the Fund's operations for the period and its financial position at the close of each financial year. In the circumstances, the Department was therefore in breach of the law.

Submission by the Accounting Officer

3247) The Accounting Officer reported that within the stated period the State Department had not separated from the Ministry of Industrialization and Enterprise Development, the Financial Statements had been prepared but combined with those of the Ministry. The State Department has now separately prepared the Financial statement and submitted the same to the Auditor General through Letter referenced SDC/ACCOUNTS/FIN/00123 dated 13th August, 2019; and the State Department has also resubmitted the Financial Statement through letter referenced SDC/ACCTS/FIN/00123.

Committee Observation and Findings

3248) The Committee observed and found that:

1) The Financial Statements hadbeen availed to the Office of the Auditor-General and reviewed; and
2) The issue was marked as resolved.

1160. Differences between the Financial Statements and the Trial Balances

3249) During the year under review following differences between financial statement balances and IFMIS trial balances were noted;

Item	Financial statements balance KSh.	IFMIS Trial Balance figure KSh.	Difference KSh.
Cash at Bank	28,599,395	1,322,399,006	1,293,799,611
Cash in Hand	247,060	6,627,068,990	6,626,821,930
Government Imprest	147,350	2,585,487	2,438,137

3250) Although the management explained that the variances were as a result of an interface problem between IFMIS system and internet banking platform that picked transactions that did not relate to the State Department, the discrepancies had not been reconciled.

Submission by the Accounting Officer

3251) The Accounting Officer reported that the differences were as the results of IFIMIS reports not reflecting the reconciliations between the system and the Internet Banking platforms done by the end- use. The State Department has however, engaged the IFIMIS department at the National Treasury constantly to get the way forward.

Committee Observation and Findings

3252) The Committee observed and found that:

1) The State Department had not put more effort to resolve the issue of the reconciliations;
2) The letter referred to by the Accounting Officer was addressed to the Principal Secretary National treasury. However the letter was signed by a Junior Officer in the capacity of Deputy Head of Accounts. Also the State Department had not written any reminder to the Principal Secretary National Treasury as a follow up to the earlier letter.
3) The issue remained unresolved

Committee Recommendation

3253) The Committee recommended that:

1) **The Director of IFIMIS is here by directed to respond to the letter Ref. SDC/ACCTS/FIN/0040 from the Deputy Head of Accounts State Department**

of Cooperative on or before 27th of February, 2020 and a copy availed to the Committee.

2) **Within two weeks from the date of this meeting, the Accounting Officer should ensure that the difference between the Financial Statement and the IFIMIS trial Balance are resolved and a report availed to the Committee for re-consideration.**

3254) <u>The Committee observed that Paragraph 1161 to 1162 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

37.0 STATE DEPARTMENT FOR TRADE

FINANCIAL STATEMENTS FOR VOTE 1174

Amb. Johnson Weru, the Principal Secretary and Accounting Officer for the State Department for Trade (Vote 1174) appeared before the Committee on 30th November 2020 to adduce evidence on the Audited Financial Statements for the State Department for Trade (Vote 1174) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Ms. Mildred E. Akoth - Head of Accounting Unit
2. Mr. Joash O. Akuma - Chief Finance Officer
3. Mr. Hezron Macharia - Deputy Accountant
4. Ms. Beatrice K. Kahiu - In-charge Supply Chain Management
5. Mr. Mathew M. Kinyua - Accountant

Basis for Qualified Opinion

1163. Outstanding Temporary Imprests

3255) The statement of assets and liabilities as at 30 June 2018 reflects accounts receivables' balance of KSh.1,090,028 which includes outstanding temporary imprests of KSh.1,065,678 as disclosed in Note 10 to the financial statements. These imprests ought to have been surrendered or accounted for on or before 30 June 2018. However, review of the position as at November 2018 revealed that out of the figure of KSh.1,065,678, imp rests amounting to KSh.505,824 had been surrendered or accounted for, leaving a balance of KSh.559,854 outstanding in disregard to Regulation 93(5) of the Public Finance Management National Regulation, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

3256) Further, the Integrated Financial Management System (IFMIS) generated imprest register and financial statements reflecting outstanding imprests of KSh.26,839,052 and KSh.1,065,678, respectively as at 30 June 2018. Even though the Department wrote to the National Treasury on 14 November 2018 for assistance on the matter, the resulting difference of KSh.25,773,374 between two (2) sets of records has not been reconciled.

Submissions by the Accounting Officer

3257) The Accounting Officer submitted that it was true Chair that the outstanding imprest as at 30 June 2018 was KSh.559,854. This has however been fully surrendered through vouchers, IPPD Recovery by-products and MR receipts which have been verified by the office of the Auditor General. The surrenders were not done by 30th June since the exercises for which imprest was taken was still ongoing. The State Department therefore Chair was not in breach of Regulation 93(5) of the public Finance Management National Regulations, 2015 as the said Regulation applies only to exercises/works for which a temporary imprest was taken has been concluded.

3258) The imprest register maintained by the State Department reflected KSh.1,065,678 which is the figure reported in the Financial Statements as at 30 June 2018. The trial balance however as per the IFMIs reflected a debit balance of KSh.26,839,052. The was a unique situation Chair and after consultation with Treasury through our letter dated 14th November 2018 it was found that the system was cumulating imprest balances from previous years leading to the figure of KSh.26,839,052 in the IFMIS generated imprest register. However, together with the National Treasury have been able to reconcile the two sets of records as per the attached Current trial balance.

Committee Observations and Findings

3259) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Inaccuracies in the Outstanding Temporary Imprests was persuasive; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3260) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1164. Cash and Cash Equivalents

3261) Examination of the reconciliation statements for the month of June 2018 revealed existence of long outstanding items some dating back to the year 2016. It was also noted that trial balance availed for audit review reflects cash in bank (recurrent account) amount of KSh.846,981,841 while trial balance attached to the financial statements indicates KSh.806,817,726. This results to an unexplained variance of KSh.40,164,115 which clearly casts doubt on whether the financial statements are accurate and complete.

Submissions by the Accounting Officer

3262) The Accounting Officer submitted that the existence of the long outstanding items was identified through the reconciliation statements for month of June 2018 as correctly reported by the Auditor. Through the reconciliation we have been able to identify these items most of which are as a result of the timing differences between the IFMIS cash book and the cash book kept by the Department. These items have been identified, cleared after reconciling the records held the State Department and IFMIS Ledger statements.

3263) The unexplained variance of KSh.40,164,115 between the recurrent system bank account in the trial balance provided for audit review was as a result of consolidating recurrent and deposit accounts. The management has however cleared the consolidating items in the trial balance showing the correct status of the accounts.

Committee Observations and Findings

3264) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Inaccuracies in the Cash and Cash Equivalents was persuasive; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3265) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1165. Variances in financial statements

3266) A review of balances in financial statements and trial balance and IFMIS financial statements revealed that some balances were not in agreement as shown below:

Details	Financial statements KSh.	Trial balance/ General ledger- KSh.	IFMIS financial statements- KSh.	Remarks
Exchequer releases	2,033,155,388	5,475,749,569	2,033,155,388	Trial balance not in agreement with financial statements
Cash and bank balances	16,303,422	4,530,255,729	4,513,952,307	Balances in the three sets of documents not in agreement
Accounts receivable	1,090,028	12,320,050	11,230,022	IFMIS reports not in agreement with financial statements
Accounts payable	14,961,567	4,575,283,005	4,575,283,005	IFMIS reports not in agreement with financial statements

Submissions by the Accounting Officer

3267) The Accounting Officer submitted that whereas the various variances observed in the Financial Statements was as a result of time difference between IFMIS Ledger and time of preparing the statements as a result of various entries which had not been captured as 30th June 2018, some were as a result of wrong/ malfunctioning of IFMIS as explained here below;

3268)

a) The figures in the Trial Balance are not agreeing with the IFMIS financial statement and financial statement. This is due to trial balance accumulating the prior year balances of 2016/2017 financial year and the current year 2017/2018 financial year. The exchequer releases for year ending 30th June 2017 was KSh.3,442,460,000 and the exchequer Releases for year ending 30th June 2018 was KSh.2,033,155,388. Hence the figure KSh.,475,749,569.60 is made up of both KSh.3,442,460,000 and KSh.2,033,155,388 which was cumulated together in IFMIS. The cumulative figures in the system has however been cleared.

3269)

b) Cash and Bank balance: The trial balance, IFMIS Financial Statement and the financial statements are not in agreement since the difference between the IFMIS financial statement KSh.4,513,952,306.25 and the trial balance KSh.4,530,255,728.65 results to a variance of KSh.16,303,422 reported in the Financial Statement. This was due to cumulative figures in the system which have now been cleared.

3270)

c) Accounts Receivable: The trial balance, Financial Statement and the IFMIS financial statements are not in agreement but KSh.1,090,568 in the financial statement is the difference between the trial balance/general ledger of KSh.12,320,049.60 and

KSh.11,229,481.60 of IFMIS Financial Statement. This was due to cumulative figures in the system which has been cleared.

3271)

d) Accounts Payable: it is true that the IFMIS Financial statement and trial balance are not in agreement with the financial statement. The figure of KSh.4,575,283,004.45 in the trial balance and the IFMIS Financial Statement is system generated and after consultation with Treasury the figures has been cleared.

Committee Observations and Findings

3272) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Inaccuracies in the Variances in financial statements was persuasive; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3273) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1166. Unsupported of Expenditure

1166.1 Scholarship and Other Educational Benefits

3274) An expenditure amount of KSh.28,040,000 was incurred on education allowances, scholarships and other educational benefits-secondary. Apparently, no schedules/ documents were availed to support the expenditure. Consequently, it is not possible to confirm the purpose and validity of the grants totaling KSh.28,040,000.

Submissions by the Accounting Officer

3275) The Accounting Officer submitted that the responsibility of providing expenditure returns for all the monies sent to our missions abroad is vested upon the Ministry of Foreign Affairs through its accounting officer. As at the time of audit, the Accounting Officer, Ministry of Foreign Affairs had not submitted these expenditure returns to the Department. However, the Ministry of Foreign Affairs has been able to provide expenditure returns for Trade Attaches for the period 2017/2018, 2018/2019. 2019/2020 amounting to KSh.,221,615,921.00 out of total of disbursement to foreign mission amounting to KSh.241,816,505.00 over the same period. This results in a balance of KSh.20,200,584.00 as at 3rd June, 2020 for which we has the department has written to the Accounting Officer, Ministry of Foreign Affairs to provide with expenditure returns.

Committee Observations and Findings

3276) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Inaccuracies in the Unsupported of Expenditure - Scholarship and Other Educational Benefits was persuasive; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3277) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1166.2 Authority to Incur Expenditure (AIEs) to Foreign Missions

3278) As reported in 2016/2017, the statement of receipts and payments reflects use of goods and services figure of KSh.370,929,815 as at 30 June 2018. An examination of sample financial transactions obtained from the general ledger and cashbooks revealed that the Department disbursed KSh.85,484,187 to foreign missions. However, the entire amount was expensed instead of being reported as accounts receivables until they are accounted for by the missions.

3279) Besides, examination of a sample of transactions recorded in the general ledger revealed that part of the AIEs to foreign missions amounting to KSh.52,467,412 were allocated to use of goods and services. The Department is therefore in breach of the Public Finance Management National Regulations, 2015. Consequently, the propriety of expenditure totaling KSh.85,484,187 expensed during the year under review could not be confirmed.

Submissions by the Accounting Officer

3280) The Accounting Officer submitted that the responsibility of providing expenditure returns for all the monies sent to our missions abroad is vested upon the Ministry of Foreign Affairs through its accounting officer. As at the time of audit, the Accounting Officer, Ministry of Foreign Affairs had not submitted these expenditure returns to the Department. However, the Ministry of Foreign Affairs has been able to provide expenditure returns for Trade Attaches for the period 2017/2018, 2018/2019. 2019/2020 amounting to KSh.,221,615,921.00 out of total of disbursement to foreign mission amounting to KSh.241,816,505.00 over the same period. This results in a balance of KSh.20,200,584.00 as at 3rd June, 2020 for which we has the department has written to the Accounting Officer, Ministry of Foreign Affairs to provide with expenditure returns.

Committee Observations and Findings

3281) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Inaccuracies in the Unsupported of Expenditure - Authority to Incur Expenditure (AIEs) to Foreign Missions was persuasive; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3282) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1167. Pending Bills

3283) Records maintained by the State Department for Trade and note 15.1 to the financial statements reflects bills totaling KSh.43,205,958 that were not settled during the year 2017/2018 but were instead carried forward to 2018/2019. The Department has cited liquidity problems due to inadequate exchequer as the main reason for these pending bills.

3284) However, out of the KSh.43,205,958, bills amounting to KSh.28,261,329 were not supported with the relevant documents such as invoices, local purchase orders, date, nature of goods supplied/services offered and delivery notes. In the circumstances, it has not been possible to ascertain the correctness, legality and validity of the pending bills balance of KSh.28,261,329.

Submissions by the Accounting Officer

3285) The Accounting Officer submitted that out of unsupported pending bills of KSh.28,261,329 as at 30th June 2018, the department has been able to clear pending bills totaling to KSh.12,996,413 which has been fully supported. The uncleared balance of KSh.15,294,915 includes KSh.12,563,220 relating to World Trade Organization whose budget was transferred to the National Treasury leaving a balance of KSh.2,731,695 which could not be paid as no supporting documents was provided by the supplier.

Committee Observations and Findings

3286) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the Pending Bills of KSh.28,261,329 have been settled significantly leaving a balance of KSh.2,731,695. List of suppliers and other supporting documents were provided for audit review and verification; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3287) The Committee recommended that:

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills exist, they should form the first charge in the budget of the subsequent year.

1168. Prior Year Adjustments

3288) Note 13 to the financial statements indicates an amount of KSh.1,242,988 which is referred to as prior year adjustments. The amount includes adjustment on receivables of

KSh.1,126,953. The management has however not provided analysis of the prior year adjustments and supporting documents. Consequently, the accuracy of the balances reflected in the financial statements cannot be ascertained.

Submissions by the Accounting Officer

3289) The Accounting Officer submitted that there was delay in providing analysis of prior year adjustment of KSh.1,126,953 as at the time of audit. By the time the prior year adjustment was provided, the audit had already been completed. However, the prior year analysis was subsequently verified by the auditors and as hereby attached has been verified by the Office of the Auditor General.

Committee Observations and Findings

3290) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Prior Year Adjustments was satisfactory; and
5) The matter therefore remained unresolved.

Other Matter

1169. Budgetary Control and Performance

3291) The statement of receipts and payments for the year ended 30 June 2018 and as disclosed in Note 4 to the financial statements reflects expenditure totaling KSh.370,929,815 under goods and services. The amount includes KSh.39,800,242 incurred in respect of routine maintenance - other assets in comparison to an approved budget of KSh.2,325,310, resulting in an over-expenditure of KSh.37,474,932 or 1612%. Although The National Treasury vide letter referenced ES 1174/17/01/(3) dated 25 August 2017, approved re-allocations of KSh.44,500,000 to cater for office partitioning and refurbishment, it is not clear why these re-allocations were not regularized during the financial year 2017/2018 supplementary estimates.

3292) Further, the financial statements for the year ended 30 June 2018 include a summary of appropriation in respect of development account which reflects exchequer releases of KSh.39,863,100 against actual expenditure of KSh.42,598,727 thus resulting in an excess expenditure of KSh.2,735,627. The management has explained that excess expenditure was due to the State Department having an opening balance of KSh.2,142,555 in the bank. However, the amount was omitted from the current year’s financial statements because it was not captured in the recurrent budget.

Submissions by the Accounting Officer

3293) The Accounting Officer submitted that the opening bank balance of KSh.2,142,555 was omitted from the budget as it is normal that the National Treasury always collects back unspent monies as at the close of each financial. This amount/balance was however included in the approved budget estimates for the Financial Year 2018/2019.

Committee Observations and Findings

3294) The Committee observed and found that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Budgetary Control and Performance was persuasive; and
5) The matter therefore remained unresolved.

3295) <u>The Committee observed that Paragraph 1170 on lawfulness and effectiveness in use of public resources was discussed and found as satisfactory.</u>

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1171. Internal Controls

1171.1 Information Technology (IT) Service Continuity

3296) The State Department did not have a formal, documented and tested disaster recovery plan/emergency procedure in place in terms of information technology and therefore in the event of an emergency, the personnel involved might not be aware of what is expected of them.

Submissions by the Accounting Officer

3297) The Accounting Officer submitted that this function has been centralized in the Ministry of ICT Hence the disaster recovery plan/ emergency procedures are in the ICT Authority under the Ministry of ICT.

Committee Observations and Findings

3298) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the Internal Control measures was persuasive. The Measures are established and in use; and
2) The Committee marked the matter as resolved.

1171.2 Audit Committee

3299) There is an internal audit department headed by the Senior Assistant Internal Auditor General who is supposed to report directly to the Audit Committee. Although the Cabinet Secretary of Ministry of Industry, Trade and Cooperatives appointed the chairperson and members of Audit Committee in September 2017 for a term of three years, it has not been commissioned.

Submissions by the Accounting Officer

3300) The Accounting Officer submitted that the Audit Committee was commissioned on Monday 25th February 2019 at the Cabinet Secretary's Boardroom 17th Floor NSSF Building Block 'A' and the meeting started at 09.00 A.M. It held its first meeting on 20th May 2019 and the second meeting on 16th October, 2019.

Committee Observations and Findings

3301) The Committee observed and found that:

1) The explanation given by the Accounting Officer with regard to the Audit Committee was persuasive. The Audit Committee is now established, commissioned and functioning; and
2) The Committee marked the matter as resolved.

38.0. STATE DEPARTMENT FOR EAST AFRICAN INTEGRATION

FINANCIAL STATEMENTS FOR VOTE 1183

Dr. Kevit Desai, the Principal Secretary and Accounting Officer for the State Department of East African Integration Vote 1183 appeared before the Committee on 11th November 2020 to adduce evidence on the Audited Financial Statements for the State Department for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). The following officials accompanied him:

1. **Ms. Maureen Oganga - Assistant Accountant General;**
2. **Mr. Juma R. Jalango - Ag. Project Manager; and**
3. **Mr. S. Ikua - Secretary Administration.**

1172. Pending Bills

3302) A review of the Pending Bills records indicate that the State Department had pending bills totaling to Ksh.128,493,984 as at 30th June 2018 as compared to Ksh.6,246,965 in 2016/2017 representing an increment of Ksh.122,247,019 or 1957%. However, the pending bills were not supported with details of contract, invoices and payment vouchers. Further, had the pending bills been paid in the year under review, the statement of receipts and payments would have reflected a deficit of Ksh.127,995,610 instead of a surplus of Ksh.498,374 reported. The Management has attributed the pending bills to shortfall in exchequer receipts.

3303) Consequently, the validity and legality of the pending bills amounting to Ksh.128,493,984 could not be ascertained.

Submission by the Accounting Officer

3304) The Accounting Officer admitted that pending bills totaling to Ksh.128,493,984 were outstanding as at 30th June 2018.These pending bills were in four basic categories, namely;

a) Supply of goods and services amounting to Ksh.89,076,282;
b) Staff payables of Ksh.5,891,706;
c) Amount due to 3rd parties comprising of deductions from salaries of Ksh.1,525,995.70; and
d) Statutory deductions to EAC Secretariat of Ksh.32,000,000

All amounting to Ksh.128,493,984. A copy of Pending Accounts payable was availed for perusal by the Committee. The Accounting Officer reported that the pending bills were supported by payment vouchers, invoices and contracts.

3305) However:

i. Earthline Ventures works commenced on 21st June 2018 close to the end of the financial year, and the timeline for completion was 6 weeks after the end of year, therefore the certificates of works completed was not available as at 30th June 2018, since it was work in progress.
ii. Safari Park Hotel had an original invoice of Ksh.11,991,030 invoice no.149119 dated 17th June 2018 but the invoice was partly paid an amount of Ksh.4,691,150, leaving a

balance of Ksh.7,299,880 which was settled by the State Department of Regional and Northern Corridor to which the activity belonged.

3306) The Department entered into a contractual commitment with the above suppliers and the related cash was not paid out. Therefore, disclosed and recognized as pending bills to mitigate against budgetary constraints and cater for needed provision in the subsequent financial year when the settlement for the liabilities is done. The State Department's recurrent approved estimates for 2017/2018 Financial Year as reflected in the Appropriation Statements was KSh.1,648,754,559. The allocation amounts related to the budgeted exchequer funding the department expected to receive for its planned operations to cater for salaries, procurement of goods and services rendered, and remittance of subscriptions to international organizations. The Accounting Officer stated that pending bills were for services and goods the department committed to that had a budgetary provision. The pending bills expenditure had a related exchequer issue provision which the department requested to be funded, but was not funded, therefore no deficit situation would have occurred since the additional exchequer (under issue) other than reported for the period would have been used to pay the pending bills.

3307) The Accounting Officer further reported that the activities took place within the financial year 2017/2018 and the department had a payment obligation. In accordance with the accounting principles adopted of recognizing all payments when the event occurs and the related cash has been paid out by the Entity, the amount of Ksh.128,493,984 was not paid but disclosed and recognized as pending bills to mitigate against budgetary constraints and cater for needed provision in the subsequent financial year when the settlement for the liabilities is done.

3308) The pending bills of Ksh.1,525,995.70 related to deductions from salaries ranging from Staff welfare associations, Sacco recoveries, insurance deductions, House Rent, Mortgages, and bank loans. These deductions had been processed up to Internet Banking level, but some due to internet banking challenges and inaccurate supplier bank details, were reversed as returned cheques. These payments at the close of the year were voided and cancelled in the related period and recognized as liabilities to the department. The liabilities have been cleared.

3309) The Pending amount of Ksh.32,000,000 was part of the statutory contributions to the EAC Secretariat whereby the Payment Advise No.110199 had been processed up to Central Bank of Kenya for remittance but the account was not credited with exchequer. The payment of subscriptions has since been transferred to the National Treasury. The amounts have since been settled. The payment vouchers invoices, approvals and other documentation were availed for perusal by the Committee.

Committee Observations and Findings

3310) The Committee observed and found that:

1) All pending bills had since been paid and settled;
2) The Accounting Officer had put in place measures to ensure the State Department

pays all suppliers within the financial year; and

3) The explanation by the Accounting was satisfactory to the Committee and therefore the matter was resolved.

1173. Payments of Services not Rendered

3311) A review of records revealed that, the management planned a retreat for the Parliamentary committee on Regional Integration to develop an operational framework for engagement between the National Parliament, East African Legislative Assembly and the State Department from 24^{th} to 26^{th} November which was later postponed to between 1^{st} and 4^{th} December 2016 but eventually took place from 24^{th} to 25^{th} March 2017. However, before postponement of the retreat the management had procured return air ticket a cost of Ksh.1,541,700 and since the postponement was communicated to the service provider in less than 24 hours before the travel date, the state department became liable to pay the full cost of the air tickets. The service provider later agreed to reduce the claim to Ksh.1,249,200 after negotiations with the pending bills committee. Further, the Department paid an amount of Ksh.98,000 in respect of late cancellation of hotel room booking and a fee of Ksh.141,000 for late conference package cancellations. In the circumstances, the State Department of East African Integration did not obtain value for money from payments totaling Ksh.1,488,750.

Submission by the Accounting Officer

3312) The Accounting Officer admitted that the State Department had planned a retreat for Parliament Committee on Regional Integration to develop an operational framework for engagement between the National Parliament, EALA (K) and SDEAC from 24^{th} -26^{th} November 2016 which was later postponed due to clash of EALA committee activities.

3313) To mitigate against incurring further costs arising from possible legal suits, the State Department settled the negotiated amount of KSh.1,249,200 to M/s Vercelli Tours and Travel. Since the supplier indicated that the tickets for all officers were closed and that they were subject to be paid in full; and as well advised for use of open-air tickets which can be changed or cancelled by notifying the agent or the time of travel, the State Department have since enforced measures to ensure open tickets are procured and cancellations/changes are done 24 hours before commencement of travel.

3314) The State Department in a similar circumstance agreed with the hotel to pay Ksh.98,000in respect of late cancellation of hotel room booking and a fee of Ksh.141,000for late cancellation package to avoid further costs arising from possible legal suits.

Committee Observations and Findings

3315) The Committee observed and found that:

1) The explanation given by the Accounting Officer and the supporting documents availed were satisfactory;
2) The State Department had enforced measures to ensure open tickets are procured to mitigate on the losses in cases of failure to travel or postponement of the same; and
3) The explanation by the Accounting was satisfactory to the Committee and therefore the matter was resolved.

1174. Unresolved Prior Years Issues

1174.1 Voidable Somali IGAAD Peace Talks Pending Claim

3316) As previously reported a local firm was in October 2002, requested by the Government of Kenya to offer accommodation to delegates attending the Somali IGAD peace Talks in Eldoret town. Upon conclusion of the talks, the government delayed in settling the principal amount for the services rendered and the matter was lodged in court to recover the agreed of Ksh.65,000,000.The Court ruled in favour of the claimant and State department was directed to pay the hotel a sum of Ksh.65,000,000 within 60 days failure to which interest would accrue until payment was made in full.

3317) The decretal amount of Ksh.65,000,000 was finally settled on 19th April 2013 upon which it had attracted interest totaling Ksh.20,991,905. A review of the matter in the year under review revealed that the accrued interest had not been settled despite of several reminders from the attorney general. In the circumstances, the unpaid amount is likely to attract more interest claims which are voidable.

Submission by the Accounting Officer

3318) The Accounting Officer admitted that the interest accrued on the pending claim totaling to Ksh.20,991,905 had not been settled as at the time of audit in October 2018. However, there had been continuous consultations and correspondences between the State Department and the National Treasury for provision of additional resources to settle the claim, and no funds had been provided by the National Treasury as at the time of Audit. The funds were later allocated to the State Department during 2018/2019 financial year in the period of June 2019 vide supplementary II and the entire amount of KSh.20,991,905.00 paid to the Solicitor General, State Law office on 26th June 2019 vide P/v No.006034; EFT No 19177L9TX2**.**

Committee Observations and Findings

3319) The Committee observed and found that:

1) An amount of Ksh.20,991,905.00 was paid to the Solicitor General, State Law Office on 26th June 2019 and there was a confirmation of the same; and
2) The explanation by the Accounting was satisfactory to the Committee and therefore the matter was resolved.

Other Matters

1175. Budget and Budgetary Performance

1175.1 Receipts

3320) A review of the summary statement of appropriation: recurrent and development combined showed that the Department had budgeted for receipts totaling Ksh.1,713,754,559 but actual receipts amounted to Ksh.1,521,825,165 resulting into a shortfall of Ksh.191,929,394 or 11.2% under realization. The shortfall was mainly attributed to failure to receive the budgeted exchequer of Ksh.134,684,488 from the National Treasury and Ksh.57,244,906 in respect of domestic and foreign grants.

Submission by the Account Officer

3321) The Accounting Officer submitted that the under realization of the receipts by Ksh.191,929,394 or 11.2% was attributed to failure of receipt of the budgetary allocations of Ksh.134,684,488 in terms of exchequer and Ksh.57,244,906 in development funding by Trade Mark East Africa (TMEA) in respect of proceeds from domestic and foreign grants; TMEA funds multiple projects, infrastructural and soft projects i.e capacity building which EAC falls under. During this period TMEA resolved administratively to prioritize financing of the infrastructure projects and imposed austerity measures on the soft projects that agencies such as the State Department implements, thus resulting to a shortfall of 8% and 78% respectively.

Committee Observations and Findings

3322) The Committee observed and found that:

1) The under realization of the budget was attributed to failure of receipt of the budgetary allocation from the National Treasury; and
2) The explanation by the Accounting was satisfactory to the Committee and therefore the matter was resolved.

1175.2 Payments

3323) The State Department had budgeted to spend Ksh.1,713,754,559 but actual expenditure amounted to Ksh.1,521,326,789 resulting to an under expenditure of Ksh.192,427,769 or 11.2%

Submission by the Accounting Officer

3324) The under expenditure was mainly attributed to inadequate exchequer funding totaling Ksh.192,427,770 or 11.2% which implies that the goals and objectives of the Department may not have been achieved as planned. The Accounting Officer admitted that the under expenditure of the budget by Ksh.192,427,770 or 11.2% implies that the goals and objectives of the Department could not have been achieved as planned, and greatly affected. However, the department accomplished the much it could with the available resources.

Committee Observations and Findings

3325) The Committee observed and found that:

1) The under expenditure of the Budget was attributed to failure of receipt of the budgetary allocation from the National Treasury; and
2) The explanation by the Accounting was satisfactory to the Committee and therefore the matter was resolved.

1176. Lack of Audit Committee

3326) Regulation 174 and 175 of the Public Finance Management (National Government) regulation (PFM (NG)) Regulation 2015 requires every National Government entity to establish and audit committee to provide oversight and assurance over issues of risk, control, and governance. However, it was observed that the State Department operated without an audit committee. The management has explained that the process of establishing the audit committee which started in 2017 was affected by the re organization of the Ministry of East

African Integration, Labour and Social Protection and that the process had started in the year 2018/19. Consequently, the state department has contravened the PFM (NG), 2015 regulations and absence of audit committee implies that the activities of the Management were not independently appraised.

Submission by the Account Officer

3327) The Accounting Officer submitted that the State Department did not have an Audit Committee in place for the year under review. The positions of the chairperson and its members had been advertised earlier but the advert did not attract suitable candidate for the position of chairperson. The position of Chairperson was later re-advertised, short listing carried out and the interviews conducted.

3328) The Audit Committee has so far been established and the committee members in place vide appointment letters dated 15th July 2020 Ref: SDRNCD/ADM/1/3 Vol.1 (9-13). This Committee is comprised of One Chairperson and Four members.

Committee Observations and Findings

3329) The Committee observed and found that:

1) The State Department had since established an Audit Committee vide appointment letters dated 15th July 2020 Ref: SDRNCD/ADM/1/3 Vol.1 (9-13), comprising a chairperson and four members; and
2) The explanation by the Accounting was satisfactory to the Committee and therefore the matter was resolved

3330) <u>The Committee observed that Paragraph 1177 to 1179 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

1180. Pending Bills

3331) Included in the financial statements is an amount of Ksh.1,180,492,625 in respect of pending bills. However, the funding summary reflects undrawn balance to date of Ksh.518,094, 904 and the funds in bank accounts amounts to Ksh.231,209.00 resulting in a shortfall of Ksh.662,166,512 Thus the project does not have enough funds to clear the pending bills. Consequently, the project might have incurred ineligible expenditure of Ksh.662,166,512

Submission by the Accounting Officer

3332) The Accounting Officer submitted that there was pending bills amounting to Ksh.1,180,492,625.00. The accumulation of pending bills was occasioned by low exchequer release by GoK in three subsequent financial years (2013-14) (202,536,516.85); 2014-15 (243,823,965.85); 2015-16 (191,726,023.)]. The project has since paid Ksh.479,836,097 bringing the pending bills tally to Ksh.700,656,528 currently. The Project is waiting for allocation of more funds to clear the pending bills in totality.

Committee Observations and Findings

3333) The Committee observed and found that:

1) The Pending Bills totaling Ksh.479,836,097 had been paid leaving a balance of Ksh.700,656,528.00;
2) There were no clear measures by the State Department to ensure that all suppliers are paid within the financial year; and
3) The matter was therefore unresolved.

Committee Recommendation

The Committee recommended that:

> **The Accounting Officer should within three (3) months of tabling and adoption of this report, work with the Cabinet Secretary, National Treasury, to ensure that adequate funds are allocated to clear the outstanding pending bill of Ksh.700,656,528.**

1181. Payment of Field Allowances

3334) Included in compensation to employee's balance of Ksh.58,511,015 is Ksh.7,812,125 Paid as field allowances in the year under review to eighteen (18) officers seconded to the project. However, the management approved the allowances based on an approval made in the year 2007 for top – up allowance subject to available budgetary provision. Consequently, the management was in breach of the law.

Submission by the Accounting Officer

3335) The Accounting Officer submitted that Ksh.7,812,125 was paid as field allowance to the seconded employees. The basis of payment of allowance was on the approval granted by the 10th Project Steering Committee (PSC) meeting of 20th-21st February 2012, which is the body, mandated to give policy direction to the project. The Accounting Officer reported that the officers paid were outside their workstations attending to the Project development works in the field where the operations were ongoing.

Committee Observations and Findings

3336) The Committee observed and found that:

1) The Accounting Officer was in breach of section 68 (2) (k) of the PFM Act 2012 by failing to provide Minutes of the Project Steering Committee (PSC) meeting of 20th-21st February, 2012 which, approved the payments of Ksh.7,812,125 as field allowances;
2) The project steering committee minutes of 21st February, 2012 which approved the implementation and payment of the field allowances were provided for audit review and verification; and
3) The explanation by the Accounting was satisfactory to the Committee and therefore the matter was resolved.

1182. Irregular Use of Imprests

3337) Included under purchases of goods and services balances of Ksh.32,628,377 was Ksh.1,723,000 and Ksh.1,686,369 spent on purchase of airtime and fuel respectively. However, the purchases were made through imprests contrary to the provisions of the Public Finance Management Act 2012. Consequently, the management was in breach of the law.

Submission by the Accounting Officer

3338) The Accounting Officer submitted as follows:

i) That Ksh.1,723,000 was spent on purchase of Airtime. This was however bought on need basis for various field officers. There was an allocation to cater for the airtime whenever the officers were in the field. The Project has since identified a service provider through competitive process to supply the airtime. A copy of professional opinion was availed for perusal by the Committee.
ii) The Accounting Officer submitted that Ksh.1,686,369 was used to purchase fuel on cash. This was necessitated by the long distance covered using the project bus and pickups during the farmers' exchange visits/study tours. The work tickets for the trips was availed for perusal by the Committee. Fuel consumption during such tours depended on the distance covered whereas such fuel could only be acquired on cash basis. Consequently, the project is in the process of acquiring fuel cards for each of its vehicles in order to avoid acquisition of fuel on cash.

Committee Observations and Findings

3339) The Committee observed and found that:

1) The Committee observed that the State Department has contracted a service provider for supply of airtime in the subsequent financial year;
2) The Committee also observed that the project is in the process of acquiring fuel cards for each of its vehicles in order to avoid acquisition of fuel on cash basis;
3) The Committee however observed that Officers were paid money above government rates and there was no supporting document from African Development Bank; and
4) The matter therefore remains unresolved.

Committee Recommendations

3340) The Committee recommended that:

1) **The Accounting Officer should within three (3) months of tabling and adoption of this report, ensure that a card fueling system for the project is in place and no further use if cash for fuel.**
2) **The Accounting Officer should within three (3) months of tabling and adoption of this report, take administrative action of surcharging all the officers who were paid money above government rates without supporting document from African Development Bank.**

39.0. STATE DEPARTMENT FOR LABOUR

FINANCIAL STATEMENTS FOR VOTE 1184

Dr. Peter Tum the Principal Secretary, the Principal Secretary and Accounting Officer for the State Departments of Labour (Vote 1184) appeared before the committee on 6th February 2020 to adduced evidence on the Audited Financial Statements for the State Departments of Labour (Vote 1184) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr.John Munyoki - Senior Chief Financial Officer
2. Mr. Daniel O. Ochieng - Chief Finance Officer
3. Mr. Caleb Ngaira - Director HAU
4. Mr. Francis Mitiambo - Ag. Director NHRPD
5. Mr. Calab Okelo - Ag. Director Cooperate
6. Dr. Musa Nyangusi - Ag. Director DOSH
7. Ms. Edith Okoki - Ag. Director NEA
8. Mr. Richard Bundi - Assistant Director HRMD
9. Ms. Winnie Karingithi - CE- SDL

And submitted as follows:

1184. Other Grants and Transfers

3341) The statement of receipts and payments for the year ended 30 June 2018 reflects a figure of KSh.27,849,904 for other grants and transfers which includes KSh.22,349,904 in respect of membership fees . However, a review of supporting records for this amount revealed that a total of KSh.6, 762,246 charged to international organizations for membership fees and subscriptions related to foreign travel. Further, scholarships and other educational benefits of KSh.5,500,000 (Note 7 to the financial statements) were not supported as regards to criteria of identifying the beneficiaries, list of beneficiaries, level of education and accountability of the amounts.

3342) In the circumstances, funds totaling to KSh.12, 262,246 were not applied to the purposes for which they were appropriated by the National Assembly.

Submission by the Accounting Officer

3343) The accounting officer submitted that an amount of KSh.6,762,246 charged to the international organizations was in relation to travelling expense to officers travelling abroad to attend ILO conference in Geneva and other amount to consulate staff members of KSh.5,500,000 was incurred on scholarships and other educational benefits, confirmation on the criteria on identifying the beneficiaries, their level of education and accountability of the amounts paid can only be verified from the records and documents held on the ground(foreign consulates). The amount of KSh.5, 500,000 forms part of the budgetary AIE items sent to the foreign mission.

Committee Observations and Findings

3344) The Committee observed and found that:

1) The Accounting Officer had not submitted the criteria of identifying the beneficiaries, list of beneficiaries, level of education and accountability of the amounts with regard to scholarships and other educational benefits for Audit Verification; and
2) The matter therefore remained unresolved.

Committee Recommenadtion

3345) The Committee recommended that:

Within three (3) months upon tabling and adoption of this Report, the Accounting Officer must have submitted to the Auditor General the criteria of identifying the beneficiaries, list of beneficiaries, level of education and accountability of the amounts with regard to scholarships and other educational benefits for Audit Verification and a report sent to the National Assembly.

1185. Un-Surrendered Bank Balances

3346) A review of receipt records for the State Department of labour disclosed that unspent balance of KSh.5, 684,232 received from the former Meru District was receipted on 31 October 2017 and on 29 March 2018 transferred to State Department's deposit account. It was not clear why the amount was transferred to the deposit account instead of surrendering the funds to the National Treasury as required.

3347) In the circumstances, the unspent balance of KSh.5, 684,232 received from the former Meru District has not been accounted for and or surrendered to Exchequer to date.

Submission by the Accounting Officer

3348) The accounting officer submitted that the State department established that the actual amount which was transferred from former Meru District was KSh.5, 682,508.70 and not ksh 5,684,232 as reported earlier in the financial statements submitted to the Office of Auditor General. This amount of ksh. 5, 682,508.70 was inadvertently received in Deposit Account instead of Development Account and the State Department has since written to Treasury to transfer the amount from Development account to Consolidated Fund.

Committee Observations and Findings

3349) The Committee observed and found that:

1) The above funds still remained in the Deposit Account while there was insignificant effort made by the State Department to resolve the issue.
2) The matter therefore remained unresolved

Committee Recommendation

3350) The Committee recommended that:

Within three (3) months upon tabling and adoption of this report, the Accounting Officer should liaised with the Principal Secretary National Treasury and the Office of the Auditor General and to establish a mechanism of resolving this matter and a report issued to the National Assembly.

1186. Accounts Payables

1186.1 Accounts Payable- Clearance

3351) The statement of assets and liabilities reflects accounts payable and deposits of KSh.122, 176,772. However, Note 12 to the financial statements shows included in the balance KSh.73, 069,995 described as clearance without any analysis or supporting details.

3352) Consequently, the accuracy and completeness of the accounts payables of KSh.122, 176,772 could not be confirmed as at 30 June 2018.

Submission by the Accounting Officer

3353) The Accounting officer admitted that the State Department's Assets and liabilities reflects accounts payable and deposits of KSh. 122,176,772. The amount of KSh.73, 069,995 was erroneously described as clearance but actually the said amount represents unspent AIE's balances held by the foreign mission yet to be surrendered to the Ministry.

Committee Observations and Findings

3354) The Committee observed and found that:

1) An amount of KSh.73, 069,995 was erroneously described as clearance when the said amount represented unspent AIE's balances held by the foreign missions which was yet to be surrendered to the Ministry of Labour and Social Protection;
2) The Accounting had taken remedial measures including training of staff on record keeping, development of a system where Officers counter-check each other and, appointing a desk Officer in every Foreign Mission to deal with books related to the Ministry; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3355) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1187. Pending Bills

3356) Annex 1 appended to the financial statements reflects pending bills totaling KSh.55, 120,444. However, had the bills been cleared by 30 June 2018, the statement of receipts and payments would have reflected a deficit of KSh.27,943,680 instead of a surplus balance of

KSh.27,176,764 now shown. No reason has been given for accumulating the pending bills in the year and committing the State Department's resources beyond the available funds.

3357) A review of the status during the audit in November 2018 indicated that out of KSh.55, 120,444 outstanding, bills totaling KSh.45, 517,642 had been settled leaving a balance of KSh.9, 602,802. However, it has not been clarified why the pending bills did not form the first charge in the subsequent year as required.

Submission by the Accounting Officer

3358) The Accounting officer submitted that the Department could not settle the pending bills of ksh 55,120,444 which was mainly Development in nature since there were no provisional Development Budget item to charge the expenditure. However the State Department managed to settle the pending bills during the financial year 2018/2019 as per PFM Act 2012 as a first charge.

Committee Observations and Findings

3359) The Committee observed and found that:

1) The pending bills had since been settled; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3360) The Committee recommended that:

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.

1188. Un-accounted for Disbursements to Consulate Offices

3361) During the year under review, the State Department made disbursements totaling KSh.110, 137,669 through A.I.E.'s to Consulate Offices in Qatar, Saudi Arabia, Geneva and the United Arab Emirates (UAE) as follows:

Date	Voucher No.	Labour Consulate Office	A.I.E	Amount KSh.
25/9/2017	0119	Qatar	A877237	9,500,000
25/9/2017	0120	Saudi Arabia	A877239	9,500,000
25/9/2017	0121	UAE	A877238	9,500,000
25/9/2017	0122	Geneva	A877242	10,540,000
16/1/2018	0497	Saudi Arabia	A877256	5,587,975
16/1/2018	0498	Qatar	A877455	5,587,975
16/1/2018	0499	Geneva	A877453	9,086,510
25/5/2018	01100	Geneva	B030531	10,571,284
25/5/2018	01099	Qatar	B030540	12,587,975
25/5/2018	01098	Saudi Arabia	B030433	12,587,975
25/5/2018	01097	UAE	B030536	15,087,975
Total				**110,137,669**

3362) However, expenditure returns have not been availed for audit review. In the circumstances, it has not been possible to confirm that the public funds amounting to KSh.110, 137,669 disbursed to Consulate Offices were utilized for intended purposes and accounted for.

Submission by the Accounting Officer

3363) The Accounting officer admitted that the expenditure returns for an amount of KSh.110, 132,669 had not been availed for Audit review during the audit of the financial statements of the State Department since the department had not received the expenditure returns from foreign consulates. However the department has since received the same and the expenditure returns has been availed to the Auditors.

Committee Observations and Findings

3364) The Committee observed and found that:

1) Although the returns have been received and reviewed by the Office of the auditor general, they have not satisfied the expectation of support documentation since it was a one-line confirmation of expenditure made with no further primary records; and
2) The matter therefore remained unresolved.

Committee Recommendations

3365) The Committee recommended that:

Within three (3) months upon tabling and adoption of this report, the Accounting Officer should have furnished the office of the Auditor General with primary documents required for purpose of this audit and the outcome of the verification process be communicated to the Committee.

1189. Acquisition of Assets

3366) The statement of receipts and payments for the year ended 30 June 2018 reflects KSh.71, 183,883 in respect of acquisition of assets. Included in this amount is KSh.6, 101,000 relating to receipts from sale of inventories, stocks and commodities realized by the Directorate of Occupational Safety Health (DOSH). No explanation was given as to why receipts from sale of assets were expensed or paid as acquisition of assets. Further, the Summary of Fixed assets shows acquisition of intangible assets of KSh.17,474,994 while note 9 indicates research studies, project preparation, design and supervision casting doubts on what the amount represents in the financial statements. In addition, the summary fixed assets register remains incomplete as also reported in the previous year.

3367) In the circumstances, KSh.71, 183,883 acquisition of assets expenditure is overstated by the unaccounted for disposal income of KSh.6, 101,000 for the year ended 30 June 2018.

Submission by the Accounting Officer

3368) The Accounting officer admitted that amount of KSh.17,474,994 relates to research studies, project preparation, design and supervision. This payment was incurred under NHRPD and categorized as such.

3369) He further admitted that the statement of receipts and payment for the year ended 30th June 2018 reflects KSh.71, 183,883 in respect of acquisition of assets. However it is not true this amount includes KSh.6, 101,000 relating to sale of inventory, stocks and commodities realized by the Directorate of Occupational Safety and Health (DOSH). Additionally, the fixed asset register has been prepared and availed to the Auditors.

Committee Observations and Findings

3370) The Committee observed and found that:

1) The Ksh 6,101,000 was confirmed as reported separately in the Financial Statement and therefore not included in Ksh 71,183, 888
2) The asset register submitted by the state department did not conform to the standard format on an asset register as it did not include components such as Value of the Assets, Coding and Serial Numbers; and
3) The matter therefore remained unresolved.

1190. Budget and Budgetary Performance

1189.1 Receipts

3371) The State Department had budgeted for receipts totaling KSh.2, 224,370,463 but actual receipts amounted to KSh.2, 024,057,952 resulting to a shortfall of KSh.200, 312,511 or 9% as shown below:

Item	Budget KSh.	Actual KSh.	(Excess)/Shortfall KSh.	Variance %
Exchequer releases	2,211,270,463	2,017,027,522	194,242,941	9
Proceeds from sale of assets	7,100,000	6,101,000	999,000	14
Other receipts	6,000,000	929,430	5,070,570	85
Total	**2,224,370,463**	**2,024,057,952**	**200,312,511**	**9**

3372) The failure to receive the budgeted receipts adversely affected implementation of planned activities for the year under review.

Submission by the Accounting Officer

Proceeds from Sale of Assets and Other Receipts

3373) The Accounting officer admitted that the State Department did not realise the full projected receipts (a short fall of 14% and 85% respectively) as shown in the above table to implement the planned activities for the year under review. This is because State Department did not dispose off any of its tangible fixed assets which formed part of projected Receipts the State Department had estimated to realise during the year under Review. Further the State Department did not receive the full requisitioned exchequers from the National Treasury (a shortfall of 9%).

1190 Payments

3374) The State Department had budgeted to spend KSh.2, 467,468,511 but total payments amounted to KSh.1, 996,881,189 resulting to under expenditure of KSh.470, 587,322 or 19% as follows:

Item	Budget KSh.	Actual KSh.	(Excess)/ Shortfall KSh.	Variance %
Compensation of employees	681,040,000	640,516,314	40,523,686	6
Use of goods and services	946,793,226	632,931,087	313,862,139	33
Transfer to other Government units	612,400,000	607,400,000	5,000,000	1
Other grants and transfers	28,377,194	27,849,904	527,290	2
Social security benefits	17,000,000	17,000,000	0	0
Acquisition of assets	181,858,091	71,183,884	110,674,207	40
Total	**2,467,468,511**	**1,996,881,189**	**470,587,322**	**19**

3375) The under expenditure implies that the goals and objectives of the State Department were not achieved as planned for the fiscal year 2017/2018.

Submission by the Accounting Officer

Use of Goods and Services and Acquisition of assets

3376) The adverse variance of (33% and 40%) for Use of goods and services and Acquisition of Assets respectively as shown in the above table. The State department received Development Exchequer for 1st and 2nd quarters however it was able to implement its activities and substantially achieve its goals and objectives as per the CPMU report.

Committee Observations and Findings

3377) The Committee observed and found that:

1. The explanation given was unsatisfactory as it did not give reasons for not disposing assets and whereabouts of development exchequer for 3rd and 4th quarter;
2. The matter therefore remains unresolved.

Committee Recommendations

3378) The Committee recommended that:

Within three (3) months upon tabling and adoption of this report, the Accounting Officer should have furnished the Committee with a conclusive response on the above matter.

1191 Unresolved Prior Years Issues

1191.1 Construction of the National Employment Promotion Centre Kabete

3379) As was previously reported, the construction of the proposed National Employment Promotion Centre Kabete awarded to M/s Inforserve Networks Limited on 15 May 2015 at a contract sum of KSh.442, 723,947 had stalled after payment of KSh.117, 998,228. The contractor has since abandoned the site. The contract period of 78 weeks had also expired.

3380) Consequently, it has not been possible to determine if and when the project will be completed. In addition, ownership documents for the land (L/R No.22355) on which the Project was being constructed were not availed for audit verification and the land appeared to have been encroached on by private developers. A dispute had also been registered by a person claiming ownership of the land.

3381) The Committee considered this matter in the Report of 2016/2017 and recommended as follows:

1) **Within three (3) months upon adoption of this report, the Accounting Officer should institute elaborate mechanisms to ensure that the project proceeds as scheduled and ensure that all the necessary documents are availed for audit verification in accordance with the provisions of section 62 of the Public Audit Act, No. 34 of 2015.**
2) **The Auditor General should review the matter and report back to the National Assembly expeditiously.**

3382) The Committee observed that the Paragraphs 1194 to Paragraph 1197 fall under the State Department of Social Protection and Security

3383) The Committee observed that the Paragraphs 1198 to Paragraph 1201 fall under the National Industrial Training Authority - NITA and would be examined by the Public Investments Committee.

40.0. STATE DEPARTMENT FOR SOCIAL PROTECTION

FINANCIAL STATEMENTS FOR VOTE 1185

Mr. Nelson Marwa, the Accounting Officer for the State Department of Social Protection(Vote 1185) appeared before the Committee on 22nd June 2020 to adduce evidence on the Audited Financial Statements for the State Department of Social Protection (Vote 1185) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). The following officials accompanied him:

1. Mr. John Gachigi - Head, Social Assistance Unit
2. Mr. Sidney P. Achiya - Principal Children's Officer
3. Ms. Alice Mwaniki - Head of Accounting Unit

1202. Assets Management

1202.1. Grounded Motor Vehicles

3384) Examination of Motor Vehicles register and subsequent verification revealed that fifty-eight (58) motor vehicles with undetermined values were packed at various yards for several years with no indication as to whether there were plans to repair or dispose-off the vehicles.

Submission by the Accounting Officer

3385) The Accounting Officer submitted that the State Department for Social Protection carries out regular routine visits to field offices and institutions to monitor among others vehicle status in terms of condition to determine the repair needs. Those vehicles that are deemed uneconomical to repair have been inspected in accordance to the boarding procedures stipulated. A template and support documents (inspection reports and work tickets) which shows the current status was attached.

Committee Observations and Findings

3386) The Committee observed and found that:

1) The explanation by the Accounting Officer on the reparability of grounded motor vehicles was satisfactory; and
2) The explanation by the Accounting Officer was satisfactory and therefore the Committee considered the matter resolved.

1202.2. Lack of Land Ownership Documents

3387) The State Department occupies numerous parcels of land spread across the Country, which did not have ownership documents while on some, buildings had been erected. No efforts seem to have been made to secure these properties.

Submission by the Accounting Officer

3388) The Accounting Officer submitted that the State Department occupies numerous parcels of land spread across the country on which our field offices are built besides those holding our thirty (30) Statutory Children's Institutions. Most of the parcels where our Sub County Children Officers and County Children Coordinators have built offices, belong to either the County Commissioners or Deputy County Commissioners. These are the former DC's compounds housing most government Departments/ Ministries. In such cases our officers have letters from the County Commissioner/ Deputy County Commissioner and Part Development Plans. Our Statutory Children Institutions sit on land allocated to the then approved Schools. The process of title acquisition are underway. The Ministry has an active lands committee that meets regularly to put modalities in place to secure all Ministries' land.

Committee Observations and Findings

1) The Committee observed and found that the explanation by the Accounting Officer with regard to land ownership and the verified documents availed was satisfactory.

Committee Recommendations

3389) The Committee recommended that:

The CS responsible for the State Department should within three (3) of the tabling and adoption of this report, engage the National Land Commission with a view to development a framework for securing all the lands in the Ministry.

1203. Cash Transfer Agreements with Payment Service Providers (PSP)

1203.1. Unfavorable Agency Agreements

3390) During the year ended 30 June 2018, the State Department of Social Protection transferred a total of Ksh.13,088,588,000 to a local bank for onward payment to beneficiaries under the three cash transfer programs out of which a commission of Ksh.167,745,360 was paid to the Bank. Further, Ksh.4,513,036,000 was transmitted through another local bank for onward payment to beneficiaries and a bank commission of Ksh.75,795,840 was paid. However, a balance of Ksh.2,864,456,000 remained unpaid to the beneficiaries beyond the stipulated 14 days' period and the State Department of Social Protection did not earn any interest on the balances as the agency agreements only provided for commission payable to the banks but did not have a clause on interest accruing on the funds held by the two banks.

3391) As previously reported, the State Department continues to be deprived of interest which could have been earned.

Submission by the Accounting Officer

3392) The Accounting Officer submitted that it was true that the Agency Agreements did not contain clause for payment of interest for substantial unpaid balances held by the Agents (Banks), and this is because the design of the contract was to have the funds channeled to a Holding Account.

3393) However, with the new multiple PSP choice model contract was designed to address this subject through giving beneficiaries bank accounts, the failure rate of crediting bank accounts is minimal. Hence, only a little amount is returned to the Ministry's Holding Account. The primary consideration in the agency agreement has been to pay beneficiaries promptly, in a timely and predictable manner but not for earning interest, as this will deviate from core mandate and also will need to budget for the same as A-i-A.

3394) The same issue(scenario) was also highlighted in the 2016/2017 financial report albeit with different balances and the public accounts committee in their report dated November 2019 indicated the issue as resolved.

Committee Observations and Findings

3395) The Committee observed and found that:

1) The explanation by the Accounting Officer with regard to unfavorable Agency Agreements was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3396) The Committee recommended that:

Within three (3) months after tabling of this report, the Accounting Officer should submit to the Auditor-General bank statements from the local bank showing how much interest was earned from the unpaid balance of Ksh.2,864,456,000 which remained unpaid to the beneficiaries beyond the stipulated 14 days' period.

1203.2. Low Absorption Rate of Cash Transfers to Beneficiaries

3397) A review of cash transfers records for the year ended 30th June, 2018 showed that in the six transaction cycles for July, 2017 to June, 2018, a total of KSh.13,088,588,000 was sent to KCB bank for onward transmission to the beneficiaries out of which KSh.11,313,640,000 was paid out leaving a balance of KSh.1,774,948,000 translating to an absorption rate of 86%. In the same period KSh.4,513,036,000 was sent through Equity Bank out of which KSh.3,423,528,000 was paid to the beneficiaries leaving a balance of KSh.1,089,508,000 translating to an absorption rate of 76% of the total funds disbursed. No reasons were given for the low absorption rate of cash transfers to the beneficiaries yet the cash payments were based on registered beneficiaries.

Submission by the Accounting Officer

3398) The Accounting Officer submitted that the low absorption of funds by KCB was occasioned by several factors, namely:

a. The payment periods were shortened in order to pay beneficiaries within the limited timeframes. This would often take place near the close of a financial year where a payment cycle could be shortened from the regular 21-day period in order to pay, reconcile, request for funds for the next cycle, and pay for the May-June cycle that ordinarily spill into July of every year.

b. Higher attrition. Unlike the Equity Bank Limited (EBL) which had a lower age-set of CT-OVC caregivers, for KCB that has caregivers and beneficiaries for all three programmes, with the OPCT beneficiaries being much older, hence higher natural attrition. Due to age factor among the OPCT beneficiaries the rate of biometric finger print failure is very high, but this has been minimized through the new account-based model of payment. Thus, higher absorption would be expected for this segment of beneficiaries.

c. Off-line Payments. Unlike the EBL, which had donor facilitation to procure equipment for satellite upload of payment, the KCB Bank contract allowed them to make offline payments (where there was no network). This also meant that a number of payments could have taken place at the close of the payment cycle but would not be uploaded real-time reconciliation; hence a reporting of low absorption.

Committee Observations and Findings

3399) The Committee observed and found that the explanation by the Accounting Officer and the reasons given for the low absorption rate of cash transfers to the beneficiaries when cash payments were based on registered beneficiaries was satisfactory.

Committee Recommendation

3400) The Committee recommended that:

1) **The Cabinet Secretary should follow up the matter and report back to the National Assembly within three (3) months after tabling and adoption of this report;**
2) **Within three (3) months of tabling and adoption of this report, the Auditor-General should undertake a performance audit of the Cash Transfer programme to determine its efficiency and effectiveness pursuant to Article 229 of the Constitution.**

1204. Pending Bills

3401) The financial statements reflects pending bills totaling KSh.33,125,571. Had the bills been charged and paid in the year under review, the statement of receipts and payments would have reflected a surplus of KSh.176,161,933 instead of a surplus of KSh.209,287,504 now shown. A review of the position as at the time of audit in November 2018 revealed that out of KSh.33,125,571, bills totaling KSh.24,629,136.00 had been settled leaving a balance of KSh.8,496,435.00. No explanation was given for accumulating pending bills and committing the State Department's resources beyond the available funds or why the bills did not form the first charge in the subsequent year as required.

Submission by the Accounting Officer

3402) The Accounting Officer submitted that the State Department has cleared all the pending bills outstanding during the year in question including historical bills amounting to KSh.21,920,268.65. Majority of the outstanding bill were pending waiting for support documents to facilitate their processing. These have since been provided and all pending bills have been verified and paid amounting to Ksh.55,045,839.65. Copies of pending bills paid were attached.

Committee Observations and Findings

3403) The Committee observed and found that:

1) All pending bills amounting to Ksh.55,045,839.65 had been verified and paid; and

2) The explanation by the Accounting was satisfactory and therefore the Committee marked the matter as resolved.

1205. Outstanding Impressts

3404) The statement of assets and liabilities as at 30th June, 2018 reflects outstanding imprests balance of KSh.3,584,940 which had not been surrendered by the due dates. A review of the position in November 2018 showed that an amount of KSh.1,420,050.00 had been surrendered, leaving a balance of KSh.2,164,890.

Submission by the Accounting Officer

3405) The Accounting Officer submitted that all outstanding imprest during the year in question have been fully surrendered.

Committee Observations and Findings

3406) The Committee observed and found that:

1) All outstanding imprest during the year in question had since been fully surrendered; and
2) The explanation by the Accounting was satisfactory and therefore the Committee marked the matter as resolved.

Other Matter

1206. Budget and Budgetary Performance

1206.1. Receipts

3407) The State Department had budgeted for receipts totaling KSh.28,193,083,580 but actual receipts amounted to KSh.22,821,553,372 resulting to a shortfall of KSh.5,371,530,208 or 19%. However, the variances relating to each of the components were not explained in the financial statements as required by the Public Accounting Standards Board template.

Submission by the Accounting Officer

3408) The Accounting Officer submitted that it was true that the actual receipts amounted to KSh.22,821,553,372 against the budgeted amount of KSh.28,193,083,580 resulting to a shortfall of KSh.5,371,530,208 or 19%. The receipts, which the exchequer received from the National Treasury is based on the actual revenue collected hence the shortfall.

Committee Observations and Findings

3409) The Committee observed and found that:

1) The actual receipts amounted to KSh.22,821,553,372 against the budgeted amount of KSh.28,193,083,580 resulting to a shortfall of KSh.5,371,530,208 or 19%.; and
2) The State Department attributed the revenue receipt shortfall to the revenue collection shortfall.

Committee Recommendation

3410) The Committee recommended that:

The Cabinet Secretary, National Treasury, should ensure that the MDAs

prepare budget estimates based on realistic revenue targets.

1207. Payments

3411) The State Department had budgeted to spend KSh.28,191,231,369 but total payments amounted to KSh.22,612,265,867 resulting to under expenditure of KSh.5,578,965,502 or 20%. The under expenditure mainly occurred under use of goods and services, grants and transfers to Government units and acquisition of assets at KSh.648,895,545 or 34%, KSh.4,740,092,167 or 19% and KSh.120,531,896 or 49% respectively. The failure to spend KSh.5,578,965,502 or 20% of the budget implies that the State Department's planned activities were not achieved.

Submission by the Accounting Officer

3412) The Accounting Officer submitted that it was true that in overall, the State Department under spent its budget amount by KSh.5,578,965,502 or 19%.The under expenditure mainly occurred under Use of Goods and Services, Grants and Transfers to other Government Units and Acquisition of Assets at KSh.648,895,545 or 34%,KSh.4,740,092,167 or 19% and KSh.120,531,896 or 49% respectively. This was occasioned by late uploading of the Supplementary budget and lack of exchequer at the closure of the financial year 30th June 2018.

Committee Observations and Findings

3413) The Committee observed and found that:

1) The State Department underspent its budget amount by KSh.5,578,965,502 or 19%.The under-expenditure mainly occurred under Use of Goods and Services, Grants and Transfers to other Government Units and Acquisition of Assets at KSh.648,895,545 or 34%,KSh 4,740,092,167 or 19% and KSh.120,531,896 or 49% respectively;
2) This was occasioned by late uploading of the Supplementary budget and lack of exchequer at the closure of the financial year 30th June 2018.

Committee Recommendation

3414) The Committee recommended that:

1) **The Cabinet Secretary, National Treasury, should ensure that no supplementary budget estimates is submitted to Parliament within two months before the close of the financial year.**
2) **The Committee is proposing to amend Section 44 of the PFM Act, 2012 to provide that supplementary budget estimates is submitted to Parliament not later than two months (sixty days) before the close of the financial year.**

1208. Unresolved Prior Year matters

1208.1. Lack of Comparative Balances in 2016/2017 Financial Statements

3415) As previously reported, the financial statements for the year ended 30th June, 2017 did not include 2015/2016 comparative balances. The reasons given for the above scenario was that National treasury failed to give guidance on how the balances were to be shared by the newly created State Departments curved out of the former Ministry of Labour. Social

Security and Services which was then split into two State Departments and allocated new votes (Vote 1184- State Department for Labour and Vote 1185- State Department for Social Protection).

3416) A review of the position in 2017/2018 revealed that the 2016/2017 had not been revised to incorporate the comparative balance.

Committee Observations and Findings

3417) The Committee observed and found that:

1) This matter was considered by the Committee in the report of 2016/2017

Committee Recommendation

3418) The Committee recommended that:

The Committee reiterates that the Public Sector Accounting Standards Board (PASB) should, within three months of tabling and adoption of this report, provide guidance on the application of comparative balances in presentation of financial statements particularly in cases whereby a National Government entity is split or a new National Government entity is created as a result of re-organization of government.

1209. Kabete /Getathuru Land – Directorate of Children Services Department

3419) As previously reported, ownership documents for Nairobi children's remand Home were not availed for audit review despite the fact that the institution has existed since 1957 with only an allotment letter. Further, information available indicate that part of the land measuring 4.579 HA was being claimed by a private entity which was also in possession of a title deed dated 31/12/2002. In addition, several other claimants to the land had also occupied portions of the land. As previously stated, it has not been clarified how individuals and these companies acquired government Land.

Submission by the Accounting Officer

3420) The Accounting Officer submitted that the land where Nairobi Children's Remand Home is located was a block reserved for then approved school (current Rehabilitation School). The Ministry responsible for children affairs asked the Ministry of Lands to subdivide the said block of land amongst four children's Institutions (Children's Remand Home, Getathuru Reception/ Classification Centre, Nairobi Children' Home, Kabete Rehabilitation School). Allotment letters were issued as below

- Children's Remand Home (Ref No. 209163/F/135)
- Getathuru Reception/ Classification Centre, (Ref No. 209163/F/134)
- Nairobi Children' Home (Ref No. 209163/F/133)
- Kabete Rehabilitation School (Ref No. 209163/F/132)

3421) The Ministry of Labour and Social Protection wrote to the National Land Commission requesting for fast tracking of title deeds vide letter Ref MEACL&SP/46/8 Vol 1 dated 18th January, 2019 consequent to which the National Land Commission responded by indicating that they had directed their officers to take necessary action vide their letter to the Principal Secretary Ref NLC/CHAIRMAN/VOL XXIV/50 dated 21st January, 2019.

3422) The National Land Commission vide their letter Ref NLC/GEN.CORRE/VOL V (5) dated 8th January,2018 to the State Department for Social Protection granted approval to lease out 25 acres of land to the China Road and Bridge Corporation that is constructing the Western by Pass and the State Department is in the process of executing the lease agreement**.**

3423) The Kenya Power and Lighting Company too have signed a contract with the Ministry on their occupancy. The Position of the Ministry of Labour and Social Protection concerning other claimants is that any other title on the same parcel besides the ones awaited is invalid.

Committee Observations and Findings

3424) The Committee observed and found that this matter was considered by the Committee in its report for the FY 2016/2017**.**

Committee Recommendations

3425) The Committee recommended that:

The Cabinet Secretary responsible for matters of Social Protection and the Chairperson, National Land Commission should expedite the process of survey and issuance of titles for the land in the 30 institutions offering services to children across the country and report back the progress to the National Assembly within three (3) months after the adoption of this report.

1210. Unpaid Cash Transfers Balances still held by Service Provider – Postal Corporation of Kenya

3426) As previously reported, the State Department contracted the Postal Corporation of Kenya (PCK) as an Agent to deliver cash to the vulnerable beneficiaries throughout the Country. However, after the expiry of the contract between the State Department and the agent PCK, a balance of KSh.169,300.000 remained unpaid. As at 30th June, 2017, the agent had not refunded the unpaid balances. A review of the matter during the 2017-2018 audit revealed that the status had not changed.

Submission by the Accounting Officer

3427) The Accounting Officer submitted that it was true that Ksh.169,300,000 had not been refunded to the Ministry by the Postal Corporation of Kenya (PCK) as at July 2016. Following several meetings between the two parties, the PCK has given its commitment to repay the outstanding amount through making monthly remittances of Ksh.5,000,000 to the Ministry. This is repayment is expected to commence in May 2020, and to run for two years. A letter from PCK to the Ministry on this matter was attached.

Committee Observations and Findings

3428) The Committee observed and found that this matter was considered by the Committee in its report of 2016/2017;

Committee Recommendation

3429) The Committee recommended that:

The Director DCI should expedite investigation into this matter with a view to charge any public officer found culpable with an offence of financial misconduct as stipulated in Section 197 of the PFM Act, 2012.

1211. Stalled rehabilitation Dagoretti Girls School Dormitory

3430) As previously reported, rehabilitation of Dagoretti Girls School Dormitory which was awarded to affirm at a contract sum of KSh.21,370,279.80 had stalled at the upper slab level and the contractor had by September 2017 abandoned the site. At the time the project stalled, the contractor had received payments totaling to KSh.9,731,997.00 or 45% despite completion level of only 20%. A review of the matter in 2017/2018 revealed that the position had not changed.

Submission by the Accounting Officer

3431) The Accounting Officer submitted that Dagoretti Girls Rehabilitation School was allocated Ksh.21,370,279.80 for construction of a dormitory, the contract was awarded to M/S Wanjugi Construction Ltd Box 79103-00400, Nairobi, in the 2016/17 Financial year. The Construction commenced on 2nd February, 2017 and the project duration was 52 weeks.

3432) Due to austerity measures in 2017/18 Financial year the project failed to get funding causing it to temporarily stall. However, in subsequent fiscal years, the project was funded, the contactor returned to site and completed the project. The project supervising team led by officers from the State Department for Public Works conducted a site inspection on 11th June, 2019. The team indicated that the project was ready for handing over. On 24th June, 2019 the project was officially handed over. Copy of the completion/Practical handing over certificate Ref: BD114/10027A/Vol. 1/37 was attached.

Committee Observations and Findings

3433) The Committee observed and found that this matter was considered by the Committee in its report of 2016/2017.

Committee Recommendation

3434) The Committee recommended that:

The Auditor- General should undertake value for money audit of this project as provided for in Section 36(2) of the Public Audit Act, 2015 and report back to the National Assembly within three (3) months after tabling and adoption of this report.

3435) <u>The Committee observed that Paragraph 1212 on lawfulness and effectiveness in use of public resources was discussed and found as satisfactory.</u>

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1213. Lack of Audit Committee

3436) Regulation 74(1) of the Public Finance Management Act, 2012 requires every National Government entity to establish and audit committee to provide oversight over management activities. It was observed that in the year under review, the State Department operated without an audit committee implying that the activities State Department were not independently appraised. In the circumstances, the State Department has not complied with the provisions of the PFM Act2012 as regards establishment of audit committee.

Submission by the Accounting Officer

3437) The Accounting Officer submitted that it was true that the Ministry did not have an Independent Audit Committee during the Year 2017/18. However, an Independent Ministerial Audit Committee was established during the Year 2019/20 in accordance with the Public Finance Management Act, 2012 and its attendant Regulations. The individual members appointment letters are herewith attached**.**

Committee Observations and Findings

3438) The Committee observed and found that the ministry did not have an Independent Audit Committee during the Year 2017/18. However, an Independent Ministerial Audit Committee was established during the Year 2019/20 in accordance with the Public Finance Management Act, 2012 and its attendant Regulations.

3439) <u>The Committee observed that Paragraph 1214 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

Other Matter

1215. Budget and Budgetary Performance

1215.1. Receipts

3440) The project had budgeted to receive Ksh.146,000,000 as proceeds from borrowings. However, actual receipts amounted to Ksh.129,990,741 resulting in a shortfall of Ksh.16,009,259 or 11%. The shortfall was attributed to the underutilization of funds in various activities by the project management and hence the non-reimbursement by the financiers. This trend if it continues may impact negatively the achievement of project objectives and goals.

Committee Observation and Findings

3441) The Committee observed and found that the project had budgeted to receive Ksh.146,000,000 as proceeds from borrowings. However, actual receipts amounted to Ksh.129,990,741 resulting in a shortfall of Ksh.16,009,259.

1215.2. Payments

3442) The project had budgeted to spend Ksh.146,000,000 but actual expenditure for the year amounted to Ksh.58,557,680 resulting in underutilization of Ksh.87,442,320 or 60%. The low absorption of funds was attributed largely to delay in the kickoff of the informal sector survey which was stated as the main activity of the project.

Committee Observation and Findings

3443) The Committee observed and found that the project had budgeted to spend Ksh.146,000,000 but actual expenditure for the year amounted to Ksh.58,557,680 resulting in underutilization of Ksh.87,442,320

3444) The Committee observed that Paragraph 1216 and 1217 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

CASH TRANSFER PROGRAM FOR ORPHANS AND VULNERABLE CHILDREN – IDA GRANT NO.TF097272

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1218. Assets Management

3445) Review of the project's financial statements for the year ended 30th June 2018 revealed that non-financial assets procured during the year amounted to KSh.65,995,380. However, the project did not have a complete fixed asset register. Further, as reported in 2016/2017, cash receipts of KSh.669,689,173 transferred from the closed IDA counterpart project and assets procured in its lifetime have not been disclosed. It was not possible to physically verify the existence and location of the assets bought under the project.

Submission by the Accounting Officer

3446) The Accounting Officer submitted that the project does not maintain an asset register as all the assets bought are owned by the ministry and therefore recorded in the Ministry's asset register.

Committee Observations and Findings

3447) The Committee observed and found that the Committee observed that the explanation by the Accounting Officer with regard to assets register and management of the same was satisfactory.

1219. Failure to Provide Cash Transfer Reconciliation Reports by the Service Providers (PSPs)

3448) In accordance with contract agreements signed between the State Department for Social Protection and the individual service providers. The service providers were required to provide reconciliation reports for the funds received and disbursed to the beneficiaries. However, three banks did not provide reconciliations as required.

3449) Further, the service providers did not show the status of State Department's dedicated bank account into which the beneficiaries' funds were transferred. Consequently, accountability of the project funds given to the service providers and timeliness of payments to beneficiaries could not be ascertained.

Submission by the Accounting Officer

3450) The Accounting Officer submitted that the contracted PSPs have shared with the Ministry their records of all payments, and these have been shared with the Office of the Auditor General. The office of OAG can confirm receipt.

Committee Observations and Findings

3451) The Committee observed and found that:

1) The the explanation by the Accounting Officer to ascertain accountability of the project funds given to the service providers and timeliness of payments to beneficiaries was satisfactory; and
2) The Committee marked the matter as resolved.

1220. Deceased Beneficiaries

3452) Examination of payroll records for the year under review disclosed that some deceased persons were retained in the list of beneficiaries for prolonged periods before being removed from the payrolls as their caregivers continued to draw funding totaling to KSh.184,000 in various sampled sub-counties. The management has explained that it has embarked on a strategic intervention to clean up the payroll through a new payment solution and enhanced management information system (MIS). However, it has not been possible to confirm the extent of payment made because of deceased beneficiaries or if the project will be able to recover such payments. As a result, undeserving Persons may have benefited at the detriment of deserving households from the grant project.

Submission by the Accounting Officer

3453) The Accounting Officer submitted that the establishment of proof of life is a great challenge in matters of cash transfer because of the inadequacy of the available feedback mechanisms in relation to the demise of an individual. This is with regard to the delay in issuance of Burial Permits or Death Notifications, which has been a major obstacle to effecting prompt change management. In the old contract, the Ksh.16,000 cap to the funding released to a household or beneficiary was one such mechanism put in place to reduce wastage of funds in cases of potential demise of these individuals.

3454) However, under the new account-based choice payment model the PSPs are required to do full "Know Your Customer" (KYC) to ensure that they are dealing with the correct individuals. The Ministry thereby came up with the "Deceased Beneficiaries Reporting Form" to give corroborative evidence of the demise of a beneficiary through the endorsement of the Area Chief, the Sub-County and County officers. This has made reporting faster and more prompt. Copies of deceased Beneficiaries Reporting Form and a sample of generated report of deceased cases were attached.

Committee Observations and Findings

3455) The Committee observed and found the Committee observed that the explanation by the Accounting Officer to confirm the extent of payment made on account of deceased beneficiaries or recoverability of such payments was satisfactory.

1221. Failure by service Providers to Submit Reports on Time Barred Transfers to Time Barred Transfers to Beneficiaries

3456) A review of the project payrolls and the available bank returns showed incidences where beneficiaries had failed to collect cash transferred in their account for a maximum of four cycles which totaled to KSh.16,000 for each. In accordance with the rules and procedures of the project operations, when funds remain uncollected for more than four cycles. The same are supposed to be swept back to the State Department's holding account in the respective banks. However, it was observed that the management did not avail for audit verification a report on the funds swept back after expiry of the collection widow as well as a reconciliation showing how such funds were dealt with. In the circumstances, it was not possible to confirm if the time barred cash transfers were dealt with in accordance with the project operating procedures.

Submission by the Accounting Officer

3457) The Accounting Officer submitted that in the dispensation of old contract, at the end of each payment cycle, the funds were being returned to the Ministry's Holding Account, and this was why the funds could rise from Ksh.4,000 to Ksh.8,000, to Ksh.12,000 and to Ksh.16,000.

Committee Observations and Findings

3458) The Committee observed and found that:

1) The explanation by the Accounting Officer to confirm that the time barred cash transfers were dealt with in accordance with the project operating procedures was satisfactory; and
2) The management did not avail for audit verification a report on the funds swept back after expiry of the collection widow as well as a reconciliation showing how such funds were dealt with.

Committee Recommendation

3459) The Committee recommended that:

1) **Within three (3) months of tabling and adoption of this report, the Auditor-General should undertake a performance audit of the Cash Transfer Programme to determine its efficiency and effectiveness pursuant to Article 229 of the Constitution.**
2) **The Accounting Officer should at all times ensure that required documentation is provided to the auditors in time.**

1222. Over-Payment of Bank Commission to a Local Bank

3460) The contract between a local bank and Government of Kenya in October, 2017 stipulates that a commission per transaction of disbursement shall be 2% of the payroll amount and shall be non-refundable. This means that commissions paid to the total funds received from the State Department as per the payrolls. A comparison between the funds disbursed to the banks against the actual payments to the beneficiaries revealed that the bank may have been overpaid commissions by 35,498,960 due to the wrongfully drafted agreement.

Submission by the Accounting Officer

3461) The Accounting Officer submitted that as per the contract with the PSP, the funds for the beneficiaries were to be transferred together with the PSP Commissions; and this was the practice throughout the payments. The rationale behind this was that the work of the PSP was to avail the funds to the beneficiaries, and whether or not the beneficiaries collected the funds, they were to be remunerated for the work. More so, this was the work of ferrying money to the distant regions of the country via Planes and the Mobile Runs (or Mobile Units). Therefore, the PSP would claim its commissions for availing the funds.

3462) Nevertheless, in September 2015 the Ministry sought for the legal opinion from the Attorney General's Office on the 2% PSP Commission, and the feedback received confirms the manner in which the contract should be interpreted, that:

> "…the bank would be entitled to the full commission of 2% of all monies received from the Ministry including monies returned back by the bank as a result of being uncollected."

3463) Therefore, it is with the guidance of the AG's office that the Beneficiary Funds continued to be remitted together with the Commissions -- as stipulated in the contract. Nevertheless, this has since been addressed in the subsequent contract, in which the payment of PSP Commissions is done after: (a.) the remittance of funds to the beneficiary's account; and (b.) the PSP presents proof of withdrawal of funds.

Committee Observations and Findings

3464) The Committee observed and found that the Committee observed that the explanation by the Accounting Officer with regard to over-payment of Bank Commission to a Local Bank was satisfactory.

Other Matter

1223. Budget Control and Performance

1223.1. Receipts

3465) The project had budgeted for grants amounting to KSh.480,648,000 against actual receipts realized from proceeds from domestic and foreign grants totaling KSh.392,537,200 resulting in a shortfall of KSh.88,110,800 or 18%.

1223.2. Payments

3466) The project had budgeted to spend KSh.480,648,000 but actual payments for the year under audit totaled KSh.310,294,337 resulting to underutilization of KSh.170,353,663 or 20%. The underutilization, which mainly occurred under the purchase of goods and services, was attributed to closure of the project midway in the financial year and transfer to grants through supplementary budget.

Committee Observations and Findings

3467) The Committee observed and found that:

1) The project had budgeted for grants amounting to KSh.480,648,000 against actual receipts realized from proceeds from domestic and foreign grants totaling KSh.392,537,200 resulting in a shortfall of KSh.88,110,800; and
2) The project had budgeted to spend KSh.480,648,000 but actual payments for the year under audit totaled KSh.310,294,337 resulting to underutilization of KSh.170,353,663 or 20%.

Committee Recommendation

3468) The Committee recommended that:

The Accounting Officer should work closely with the development partners supporting the project to ensure the projects revenue receipts and expenditures achieve the set targets.

1223.3. Unresolved Prior Year Matter

1223.3.1. Un verified Sub-County Treasuries Expenditure

3469) As previously reported, out of KSh.304,770,157 relating to purchase of goods and services a total of KSh.191,418,427 stated as relating to District Operational expenditures was only supported with returns from the Districts but the original documents were retained in various Sub-County Treasuries across the County. Consequently, it has so far not been possible to confirm the validity of the expenditures incurred therein.

Committee Observations and Findings

3470) The Committee observed and found that the Committee observed that out of KSh.304,770,157 relating to purchase of goods and services a total of KSh.191,418,427 stated as relating to District Operational expenditures was only supported with returns from the Districts but the original documents were retained in various Sub-County Treasuries across the County.

Committee Recommendation

3471) The Committee recommended that:

The Accounting Officer should within three (3) of tabling and adoption of this report, ensure that the original documents from the various Sub-County Treasuries across the County are availed to the auditors.

41.0. MINISTRY OF MINING

FINANCIAL STATEMENTS FOR VOTE 1191

Amb. Kirimi Peter Kaberia, the Accounting Officer for the State Department of Mining (Vote 1191) appeared before the Committee on 18th June 2021 to adduce evidence on the Audited Financial Statements for the State Department of Mining (Vote 1191) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Peter Messoh - Chief Finance Officer
2. Mr. Charles Nyaga - Head of Accounting Unit
3. Ms. Faith Pesa - State Counsel
4. Mr. Paul Mirie - Economist

And submitted as follows:

1227. Undisclosed Accounts Payable

3472) Annex 1 to the financial statements reflects pending bills totaling Kshs 118,055,019.00 out of which Kshs 33,357,885.00 was brought forward from the previous financial year. However, the bills were neither disclosed in the audited financial statements for 2016/2017, nor settled during the year under review. Management has explained that failure to disclose the bills resulted from lack of sufficient evidence to confirm their validity.

3473) Had the bills been paid and the expenditure reflected in financial statements for the year under review, the statement of receipts and payments for the year would have reflected a deficit of Kshs 151,350,343.00 instead of the surplus amounting to Kshs 62,531.00 now shown.

Submission by the Accounting Officer

3474) The Accounting Officer submitted that the Ministry of Mining had pending bills amounting to Kshs 118,055,019.00 for the supply of goods and services in both the Recurrent and Development votes for the Financial Year 2017/18. The payments were not made due to Budget cuts and late delivery of invoices by suppliers.

3475) The pending bill amount of Kshs 118,055,019.00 arose out of late delivery of invoices by suppliers and Austerity measures (Budget cuts of 75% in the Development Vote) in the Supplementary Estimates No I of 2017/18. It is noted that by then the expenditures had already been incurred and funds committed in the IFMIS system.

3476) The bills have since been verified and validated by the Internal Auditor, and paid as first charge in the financial year 2018/19 Budget allocation vide National Treasury circular no 4/2018 dated 19th June 2018 that gives guidelines of the implementation of the Financial

Year 2018/19 Financial Year Budget. Copies of the financial statements and the statement of receipts and payments for the year were submitted to the Auditor General and the Committee.

Committee Observations and Findings

3477) The Committee observed and found that:

1) The Auditor General had just received the documents for review and verification;
2) The Auditor General undertook to submit his report within two weeks for the Committee to make a decision on the matter; and
3) The matter was therefore unresolved.

1228. Unsupported Donor Funded Project Expenditure

3478) The proceeds from Domestic and Foreign Grants reflect Kshs 22,321,429 and equivalent expenditure incurred on acquisition of assets. The expenditure was incurred by the United Nations Development Program (UNDP) under a project name Extractive Industry for Sustainable Development. However, the expenditures have not been supported with payment vouchers, expenditure returns and schedules showing the activities funded and the reporting currency's conversion rates. The UNDP only provides the Department with summaries of expenditures incurred and keeps details such as payment vouchers.

3479) In the absence of payment documents, it has not been possible to confirm the validity of Foreign Grants and equivalent expenditure of Kshs 22,321,429.00 reflected in the statement of receipts and payments.

Submission by the Accounting Officer

3480) The Accounting Officer submitted that the Extractive Industry for Sustainable Development, a project in the Ministry of Mining was funded by the United Nations Development Program UNDP agreement 2013 - 2015. Funds to support the various activities of the project were channeled directly through income (A.I.A) as Foreign Grant. The Ministry of Mining budgeted for the Grants in the Development Vote in the year under review.

3481) The Expenditures and Payments were incurred and settled directly by the donor on behalf of the Ministry of Mining. At the end of the year the donor was requested to provide the Ministry with relevant documents supporting the expenditure. The donor provided the following;

1. Authenticated Combined Expenditure Returns (report),
2. Detailed Schedules of Expenditure Report in US Dollars,
3. Exchange rates used, given as a note at the end of the schedule.

3482) He added that it had become difficult to get payment vouchers from the donor. The State Department for Mining communicated vide letter Ref. MOM/CR/4/1/42 dated 31st January, 2019 requesting UNDP Country Director in Nairobi to confirm the existence to the above said documents. Since then, UNDP Nairobi Office has never responded on the matter raised.

Committee Observations and Findings

3483) The Committee observed and found that:

1) The Accounting Officer submitted all the documents to the Auditor General and were reviewed and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3484) The Committee recommended that:

1) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1229. Irregular Legal Costs and Allowance Payments

3485) The statement of receipts and payments for the year under review reflects use of goods and services expenditure totaling Kshs 1,023,365,624.00 Included in the amount are operating expenses totaling Kshs.844,342,711.00 which in turn include Ksh.401.367,055.00 incurred on legal costs and associated expenses for a case that pitted mining companies against the Republic of Kenya and which was heard and determined in Kenya's favor at the International Centre for Settlement of Investment Disputes (ICSID) in Dubai.

3486) In the suit, the mining companies sought compensation of between US $2Billion and US $5Billion (Ksh.200Billion and 500 billion), after the Government cancelled their license for exploration and development of minerals at Mrima Hills, Kwale County. The Government of Kenya was represented by two legal firms of advocates engaged by the Office of the Attorney-General.

3487) Prior to the hearing on 15th to 26th January 2018, the State Department of Mining issued imprests of Kshs 29,735,381 to three staff members to cater for legal costs and other travelling expenses. However, examination of the expenditures incurred from the imprests revealed several irregularities as follows:

i. The engagement agreement between the Government of Kenya and two legal firms provided for reimbursement of expenses on expert fees, travel, translation services, hotel expenses, meals, taxis, photocopying, telephone calls and facsimile transmission incurred by the advocates, provided such expenses were invoiced along with fees incurred for the month in question. In addition, $5,000(Ksh.500,000) would only be incurred after the written consent of the client is obtained. However, payments totaling Kshs 7,501,500 were made to the advocates in January 2018 through imprest issued to the staff members. The payments were for hotel accommodation, subsistence allowances, and expert refresher fees. Whereas the rest of the expenses had been provided for in the engagement agreement, the subsistence allowance payments totaling Ksh.749.700 paid to the advocates were not.

ii. The legal firms were paid Ksh.4,410,000 to hire a trainer to induct the firm's advocates on the case. It is not clear why the cost was borne separately from the fee paid by the Government to the firm.

iii. All expenditures totaling Ksh.7,501,500 paid from imprests were not invoiced and there was no evidence to show that written consent was obtained from the Office of Attorney-General before the payments were made. In the circumstance, the validity of the payments totaling Ksh.7,501,500 made to the advocates cannot be confirmed.

3488) Management have indicated that they have requested the Office of the Attorney-General to provide details of the contract agreements signed with the two law firms to help in reconciliation of payments made directly to the firms.

Submission by the Accounting Officer

3489) The Accounting Officer submitted that the Ministry of Petroleum and Mining received a request from the Office of the Attorney General and Department of Justice (OAG 7 DoJ vide letter under Ref AG/CONF/2/63/1VOL II, dated 30th November 2017 together with an attached itemized matrix of payments for disbursements and expenses these included costs for accommodation, travel costs, incidental expenses, visa application, airport transfer costs and air ticket.

3490) The Letter of the OAG &DoJ acted as the consent to make payments. All payments totaling to Ksh.7,501, 500.00 were paid by the ministry in line with the said letter of OAG&DoJ and engagement agreement that was signed by the OAG &DOJ and the contracted firms of DLA Piper (United Kingdom) and (Iseme Kamau Maema (IKM) a Kenyan law firm. The engagement agreement provided for "other costs" refer to page 15 paragraph 6.3 which provided for Disbursements and Expenses.

(i) In response to 1229(i) the payment of Kshs 749,700.00 paid as Daily Subsistence Allowance was based on the request of letter of OAG and DoJ and in the itemized matrix attached to the said letter which was paid at 45USD per day for the Counsels.

(ii) In response to 1229 (ii) the payment of refresher fees of Kshs 4,410,000.00 was paid to a counsel hired by the Client (OAG & DoJ) as third party legal and not a trainer. The said counsel conducted cross-examination during the hearing. This payment was effected in line with the engagement agreement, in particular paragraph 6.3 at page 15. This Ministry paid the amount to the account of DLA Piper (UK based contracted firm for onward payment to the said Counsel).

(iii) In response to 1229(iii) the invoice could not be issued before payments made as the government was required make payments in advance to secure the bookings which included payment for conference venue in a foreign hotel in Dubai and hotel accommodation for counsels. This was necessary for government deliberations or break away sessions during the hearing Noting that these were foreign hotels in Dubai the same could not be procured and owing to the sensitivity of the matter later payment would jeopardize the government position.

(iv) The above payments totaling to Kshs7, 501,500.00 were confirmed by a reconciliation letter done by the OAG& DOJ by a letter under ref AG/CONF/21/63/2 VOL.II dated 13th July 2018, which was attached.

(v) The firms IKM by a letter Ref. REP-002-0001-09 dated 1st February 2018 acknowledged the payment received towards hotel accommodation and the firm of DLA Piper by their letter dated 12th June, 2018 acknowledge all the payments made to their accounts from Officer of the Ministry.

Committee Observations and Findings

3491) The Committee observed and found that:

1) There was no agreement to show the negotiated payment rates between the Attorney General/ Iseme Kamau Maema and DLA Piper (United Kingdom);
2) Several documents such as Legal Agreement between the Client, the Attorney General and the External Legal Counsel, A letter of engagement and Copy of the Policy on pre-agreed terms and the negotiated rates from the Office of the Attorney General were provided;
3) However, there was no clear policy guidelines on settlement of such trade disputes for all other investments in the department; and
4) The matter was therefore unresolved.

Committee Recommendation

3492) The Committee recommended that:

Within six (6) months on upon tabling and adoption of this report, the Accounting Officer should clear policy guidelines on settlement of such trade disputes for all other investments in the department.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1230. Lack of Risk Management and Information Communication Technology (ICT) policies

3493) Assessment of the internal control system in place at the State Department during the year under review revealed that the management has not established a risk management policy to identify, mitigate and control operational and other risks that the Department may face from time to time. In addition, the Department has never carried out risk assessment to identify and address key areas of concern and document specified controls in response to any risks identified.

3494) The audit also revealed that the management is yet to establish an Information Technology strategic plan to leverage the Department's operations on information technology. Also, there is no documented and tested disaster recovery plan in place to provide guidance in the event of an ICT-related emergency. Further, there is no established information technology strategic committee to oversee its ICT operations.

3495) These omissions have compounded exposure of the department's operations to random and systemic risks. Management has indicated that they are set to establish structures to oversee risk and information technology management matters of the Department before the end of 2018/19 financial year.

Submission by the Accounting Officer

3496) The Accounting Officer submitted that it was true that in the year under review, the State Department for Mining did not have a Risk Management Policy to guide identification, mitigation and to control operations and other risks that may occur in the State Department from time to time. However, as a fundamental step towards an outward looking, proactive and accountable financial management system, the State Department has developed a Risk Management Framework and Procedure manuals which has been approved by the principal secretary and it is on operation.

3497) It was also true that the State Department did not carry out a risk assessment to identify and address key areas of concern and document specific controls in response to the identified risks. However, it is also encouraging to affirm that, the State Department has developed Risk registers as part of risk management strategy and internal controls and the same has been approved for operation.

3498) In addition, it was also true at the time of the audit, there was no ICT strategic plan in place nor was there an Information Technology Strategic Committee (ITSC) to oversee the Information technologies. However, the department has since appointed an Information Technology Strategic Committee (ITSC) in February 2020 to formulate the plan. The committee is headed by Director Planning with Ag. Senior Assistant Director of ICT as Secretary. Other members included: Director of Mines, Director of Geological Survey, Director of Mineral Promotion and Value Addition, Director of Gender and Director of Youth. The process was slowed by the outbreak of the COVID-19 pandemic.

3499) Further, it was also true that the State Department for Mining had no disaster recovery plan. However, the state department has since procured ICT Equipment to replace old redundant computer equipment and appointed an Information Technology Strategic Committee that was in the process of developing a disaster recovery plan before the outbreak of COVID 19 pandemic.

Committee Observations and Findings

3500) The Committee observed and found that:

1) The appointment of ICT Steering Committee was done as evidenced by a copy of the appointment letter;

2) The referred documents including risk management framework, procedure manuals, risk registers, ICT strategic plan and performance contract were provided for review;
3) It took too long for the State Department to formulate and implement the policies; and
4) The Committee marked the matter as resolved.

Committee Recommendation

3501) The Committee recommended that:

1) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

REVENUE STATEMENTS – MINISTRY OF MINING

Unqualified Opinion

1231. There were no material issues noted during the audit of the financial statements of this Project.

Emphasis of Matter

1232. Shortfall in Revenue Collection

3502) It is true that the statement of comparison of budget and actual amounts reflect an aggregate shortfall in revenue collection amounting to Ksh 195,861,414 equivalent to 21% of the budgeted receipts from three revenue streams during the year under review as shown below:

	Revenue stream	**Budget (Ksh.)**	**Actual (Ksh.)**	**Variance (Ksh.)**	**Variance (%)**
1	Cement Levy	742,108,192	597,066,815	(145,041,377)	(20%)
2	Mineral Export Levy	8,437,105	5,852,050	(2,582,050)	(31%)
3	Mining Royalties	143,188,548	94,953,566	(48,234,982)	(34%)
	Total	**893,733,845**	**697,872,431**	**(195,861,414)**	**(21%)**

3503) According to management, the shortfall resulted from difficult market conditions which were further worsened by slow economic activities after 2017 General Election, cessation of operations by one of the major mining companies and delay in publication of regulations for licensing mineral dealings, which however, have since been published.

Submission by the Accounting Officer

1) **Cement Minerals Levy**

3504) The Accounting Officer submitted that the shortfall in cement revenue collection by Ksh.145, 041,377 against the budget projections, which projections were based on expected growth in cement consumption which propelled production by the cement companies.

3505) The shortfall was attributable to the slowdown in growth of the construction sector. There was a decelerated growth in the construction sector for a second year in row stood at 8.6% in 2017. Cement consumption decreased by 8.2% from 6.3 million tonnes in 2016 to 5.8 million tonnes in 2017, an indication of a slowdown in growth of construction activity compared to the previous year. (Source; Page 20 of Economic Survey, 2018).

3506) Further in 2018, the growth in construction sector decreased to 6.6% compared to 8.5% in 2017. However, there was recorded slight increase in cement consumption from 5,856.6 million tonnes in 2017 to 5,948.7 million in 2018, brought about by cement demand for the Standard Gauge Railway (SGR) project. (Source; Page 20 of Economic Survey, 2019). The year 2017 was also an election year, followed by the repeat presidential elections in October 2017, resulting to slowed construction activities for quite some time, even up to around mid-2018. The table below shows cement levy paid in the years 2015/16, 2016/17, 2017/2018 and 2018/2019:

Financial Year	**2015/16**	**2016/17**	**2017/18**	**2018/19**
Cement Levy (Kshs)	613,312,555.00	503,400,309.00	597,066,815.00	776,306,907.00

3507) The overall cement levy collection had increased from Kshs. 503,400,309.00 in 2016/2017 financial year to Kshs. 597,066,815 in 2017/2018 representing an increase of Kshs 93,666,506 (18.6%).

3508) In order to establish the correct situation obtaining in revenue collection from the sector, the Ministry constituted a Taskforce.to establish the sales vis a vis the levies payable, arrears and any challenges being faced by the specific cement and other mining companies.

2) Mineral Export Levy

3509) The Accounting Officer submitted that a total of Kshs. 5,852,050 .00 was collected out of the budgeted Kshs. 8,437,105.00 mineral export levy resulting in under-collection of Ksh.2,585,055. Mineral Export levy comprises of mineral dealers licence fees and mineral export permits fees. A Mineral dealer's licence is issued per calendar year at a fee of Kshs. 20,000.00 while a mineral export permit is charged a fee of Kshs. 2000.00 per consignment.

3510) The under collection was caused by lack of enabling regulations for licensing after the repeal of the Mining Act Cap 306 by Mining Act 2016 effective from 27th May 2017.It took time to develop required regulations to operationalize the new law. The Mining (Dealings in Minerals) Regulations of 2017 having been published on 24th July 2017 resulted in very few mineral dealers licences issued for the calendar year ending 31st December 2017. At the end of the 2017 calendar year only 18 mineral dealers' licences had been issued. Thereafter 142 mineral dealers' licences were issued in 2018 calendar year.

3) Mining Royalties

3511) The Accounting Officer submitted that the Mining Royalties had a shortfall of Ksh 48,234,982. This was in particular occasioned by failure by Kenya Fluorspar Company Ltd to export any minerals during the year under review as the company had suspended operations followed by full closure in March 2018.

3512) Despite the above shortfalls, in designated individual streams of revenue, it is encouraging to note that the overall aggregate budgetary projected revenue of Ksh.1.2Billion was exceeded by Kshs 200 Million resulting to the actual revenue collected totaling Ksh.1.4Billion.

Committee Observations and Findings

3513) The Committee observed and found that:

1) The Mining Act regulations had been developed and operationalized to assist solve the problem mining royalties;
2) Efforts were being made to recover the outstanding royalties;
3) The current revenue collection level was far below the expected collections against the budget projections; and
4) The matter remained unresolved.

1233. Unconfirmed Royalties Income

3514) It is true the statement of receipts and transfers as at 30th June 2018 reflects royalty receipts from Base Titanium Company Limited amounting to Ksh.490,949,539 on account of titanium mineral exports. However, as in the previous financial year, data on the receipts was derived from the company's self-declared export quantities and income records rather than assessment of actual mineral export consignments by the Department.

3515) Management has indicated that officers of the Department have since been deployed at the company's mining sites in Kwale County and the Likoni Port in Mombasa to verify production output and sample mineral exports made by the Company.

Submission by the Accounting Officer

3516) The Accounting Officer submitted that Base Titanium Limited submits filled export permit application forms for consideration with declared mineral quantities, qualities and values. A report is done to the Cabinet Secretary, based on the declared values viz a viz the global prices for the said commodities for the period. Confirmation of tonnages loaded and sampling of the consignment is also done by the Ministry officials during the time of loading at both the Port loading facility at Likoni for bulk exports and at Mine site for containerized exports. However, it is true that due to Human Resource capacity constraints for the period under review, sometimes the verification and sampling was not done immediately.

3517) However, to verify those declarations thereafter, a task force was formed and members appointed by the Principal Secretary, vide letter Ref: MOMSP.AUD/09/(32) dated 17th April 2018, with the objective of ascertaining the declarations and remittances by Base Titanium, amongst other companies operating in the Mining Sector.

3518) The Task Force visited Base Titanium and verified the production and sales reports and found out that there was no material difference on the self-declared Royalties and the actual reviewed Royalties from Sales Report.

3519) Further offices have now been opened at mine site and Likoni Shipping Point to be verifying the Company's exports under re-organization of Regional offices and creation of offices at Border, exit and entry points to improve management of mineral trade and revenue collection.
Therefore, we confirm that the Ministry has since deployed officers at both the Likoni Port and the company's mine site to verify tonnages and undertake sampling of all mineral exports by the company.

3520) Base Titanium had also engaged a local branch of an independent financial audit firm to prepare the production and export certificates for years 2017 and 2018, which confirmed the production and export figures for the two years. Thereafter, every royalty payment is accompanied by a certificate by the auditors on the production and export figures.

Committee Observations and Findings

3521) The Committee observed and found that:

1) The State Department had opened offices in Likoni and was able to verify the quantities of minerals loaded;
2) A task force was formed and appointed by the Principal Secretary, vide letter Ref: MOMSP.AUD/09/(32) dated 17th April 2018 to verify the productions and sales made by Base Titanium against the self-declared Royalties;
3) The Task Force found out that there was no material difference on the self-declared Royalties and the actual reviewed Royalties from Sales Report;
4) The Committee observed that a copy of the Taskforce Report on the productions and sales made by Base Titanium was not provided for perusal;
5) Efforts were being made to recover the outstanding royalties by proposing the amendments to the Mining Act where a write-up had been submitted to the Departmental Committee on Environment and Natural Resources;
6) Above all, the Committee observed that there could be discrepancies not reported between amounts exported by Base Titanium and those verified by the Departments offices in Likoni; and
7) The matter remained unresolved.

Committee Recommendation

3522) The Committee recommended that:

The Accounting Officer should share the write-up on the proposed amendments to the Mining Act which were submitted to the Departmental Committee on Environment and Natural Resources.

Other Matter

1234. Inconclusive Negotiations on Review of Titanium Royalty Regime

3523) It is true the Special Mining Lease No.23 granted to Base Titanium Company Limited provides for review, on request of the Commissioner or the Lessee, of the conditions of the lease with a view to bring them in line with any changes circumstances whether due to economic, technical or otherwise to ensure better control of mining operations.

3524) The Government entered into a deed agreement with Base Titanium Company Limited in February 2014 and undertook to negotiate and review upwards, royalty rates prescribed in the Special Mining Lease within one month. Negotiations commenced soon thereafter and, a number of proposals were advanced by both parties with Base Titanium making its final proposal ("Bridge Proposal") to have the royalty rate increased from 2.5% to 5% and backdated to 2014.

3525) However, as at the time of concluding the audit in December 2018, a final decision had not been arrived at. The inordinate delay in concluding the matter has deprived the State Department of higher revenue receipts expected when the deed agreement was signed five years ago.

Submission by the Accounting Officer

3526) The Accounting Officer submitted that Vide deed of agreement dated 12th February 2014 between Base Resources Limited C/O Base Titanium Limited and the Government of the Republic of Kenya, represented by the Cabinet Secretary for Mining, the parties agreed to negotiate and review the royalties prescribed in the Special Mining Lease No.23.

3527) So far, there have been a number of sittings conducted between the Government Team and Base Titanium. Variation terms have partially been agreed on. The negotiations are still on-going through a multi-agency team involving the National Treasury, the Attorney General's Office, Kenya Revenue Authority and the State Department for Mining.

Committee Observations and Findings

3528) The Committee observed and found that:

1) The deed variation was yet to be signed and actualized as an agreement between a multi-agency team involving the National Treasury, the Attorney General's Office, Kenya Revenue Authority and the State Department for Mining and base Titanium was yet to be reached;
2) Sometimes after the commencement of the negotiations, Base Titanium made its final proposal ("Bridge Proposal") to have the royalty rate increased from 2.5% to 5% and backdated to 2014;
3) A final meeting of the Multi -Agency Team was to be held on Wednesday July 29 2020 at the National Treasury with the Principal Secretary of the National Treasury as the Chair; and
4) The matter remained unresolved.

Committee Recommendations

3529) The Committee recommended that:

1) Within three (3) months upon tabling and adoption of this Report, the Accounting Officer should ensure that the multi-agency team involving the National Treasury, the State Law Office and Department of Justice, Kenya Revenue Authority, the State Department for Mining and Base Titanium sign

the Deed Variation Agreement (DVA) and submit a copy to the National Assembly.

2) **Within three (3) months upon tabling and adoption of this Report, the Accounting Officer must ensure that the final settlement on the final ("Bridge Proposal") as made by Base Titanium to have the royalty rate increased from 2.5% to 5% and backdated to 2014, is reached and copies sent to the National Assembly.**

3530) The Committee observed that Paragraph 1235 to 1236 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

42.0. MINISTRY OF TOURISM

FINANCIAL STATEMENTS FOR VOTE 1201

Hon. Safina Kwekwe Tsungu, the Accounting Officer for the State Department of Tourism (Vote 1021) appeared before the Committee on 10th March 2020 and 8th June 2020 to adduce evidence on the Audited Financial Statements for the State Department of Tourism (Vote 1021) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	Ms. Marganey M. Byama	-	Chief Finance Officer
2.	David M. Jakaiti	-	Secretary Administration
3.	Ms. Lilian Moraa	-	Legal Officer
4.	Ms. Susan Theuri	-	Principal Accountant
5.	Mr. Richard Mwangi	-	Head of Accounting Unit
6.	Mr. Joseph M. Gikonyo	-	Principal Finance Officer
7.	Ms. Grace Kariuki	-	Principal Supply CMO

1237. Inaccurate Cash and Cash Equivalents

3531) The statement of assets and liabilities as at 30 June 2018 reflects cash and cash equivalents of Ksh.32,545,359. However, the supporting trial balance indicated a balance of Ksh.14,450,735,288 resulting to an unreconciled difference of Ksh.14,418,189,929.

3532) In view of the above unreconciled differences, it has not been possible to confirm the accuracy and completeness of the cash and cash equivalents balance of Ksh.32,545,359 as at 30 June 2018.

Submission by the Accounting Officer

3533) The Accounting Officer submitted that the amount of Kshs.32,545,359.00 reflected in the Statement of assets and liabilities is the true balance of the Ministry's cash and cash equivalents as at 30th June 2018, has been reconciled with the amount of Ksh.14,450,735,288 indicated in the trial balance.

3534) The difference of Ksh.14,418,189,929 has since been cleared. The amount of Kshs.32,545,359.00 reflected in the Statement of assets and liabilities is the true balance of the Ministry's cash and cash equivalents as at 30th June 2018 is now fully supported by the trial balance, cashbook, certificate of balances and bank reconciliation as at 30th June 2018. The balances related to the following accounts:

Name of Bank, Account No. & Currency	Account	2017 -2018 Kshs
Central Bank of Kenya, 1000303255,KShs	RECURRENT	433,698.00
Central Bank of Kenya, 1000303263 ,KShs	DEVELOPMENT	598,042.00
Central Bank of Kenya, 1000303573,KShs	DEPOSIT	31,506,997.00
Cash in Hand	RECURRENT	6,622.00
Total		**32,545,359.00**

Committee Observations and Findings

3535) The Committee observed and found that:

1) The amount of Kshs.32,545,359.00 reflected in the Statement of assets and liabilities is the true balance of the Ministry's cash and cash equivalents as at 30th June 2018 is now fully supported by the trial balance, cashbook, certificate of balances and bank reconciliation as at 30th June 2018. This has been reviewed and verified by the Auditor General; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3536) The Committee recommended that:

1) **The Auditor General, the Accounting Officer during the financial year under review (2017/2018) should be surcharged for failure to prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and therefore committing offenses of financial misconduct pursuant to section 197 (1) (k) and (l).**
2) **The matter be resolved.**

1238. Wasteful Expenditure on Payment of a Pending Bill and Non-Disclosure in the Financial Statements

3537) As reported in the previous year's audit, the Ministry made a payment of Ksh.150 million during the year 2015/2016 to a local law firm in respect of a pending bill from the former Ministry of Trade. Available information indicates that the payment was in respect of an initial bill of Ksh.12 million payables to Tele News Africa and Atlantic Region but which was in contention as the contract for advertising services by the firm had expired in June 2004 but the firm continued to render the service. The Attorney General vide letter Ref. A.G/CIR/3016/04 in 2006 observed that the Ministry was obligated to settle the claim since the Ministry agreed to participate in disputed third phase of the Programme. As at 17th June 2010, the bill had accumulated to Ksh.52,606,872 being outstanding amount plus 3% interest since 2004.

3538) In August 2011, the Attorney General advised the Ministry of Trade and Industry to pay the contractual amount but negotiate the interest payable even though there was no formal contract for Phase II. However, the advice was not adhered to. The firm went to court for non-payment and by the judgement dated 24 July 2012 ruled in their favour, the firm was awarded Ksh.110,061,691 being the initial Ksh.12 million plus 26% interest since April 2004. Part payment of the court award of Ksh.65 million was made in July 2013 as interest continued to accumulate. As at December 2016, the outstanding bill had accumulated to Ksh.210 million.

3539) It was noted that there was lack of diligence on the side of the then Ministry's officials in allowing the company to continue offering the services without a valid contract. There was also further negligence on part of the officials in not adhering to the professional advice by the Attorney General to pay the outstanding amount and negotiate the interest payable in 2011. Had this advice been followed, this could have saved the Government the interest accumulated of Ksh.198 million.

3540) In the year under review, a further payment of Ksh.70 million was made. Despite the fact that the Ministry to date has paid Ksh.285 million against Ksh.210 million as per December 2016 accumulated balance, the Ministry has since received an estimation statement from the Attorney General instructing the Ministry to pay a further amount of Ksh.62 million arising from the accrued interest. The same has not been disclosed on the face of the financial statements nor by way of notes. Consequently, there is risk of further loss of public funds through continued accumulated interest and penalties occasioned by the Ministry's officials. The Ministry should, therefore, fast track settlement of this issue to avoid further interest and penalties.

Submission by the Accounting Officer

Brief History of Contract – T/A Tele-News Africa and Atlantic Region

3541) Award of Tender to the Plaintiff to Render Services on behalf of the Government of Kenya**.** Sometime in the year 2004 the plaintiff Mr. Simpson Senda Wa Kwayera trading in the name and style of Telenews Africa and Atlantic Region was contracted by the Permanent Secretary Ministry of Trade wherein the said Mr. Simpson Senda Wa Kwayera was awarded a Tender to undertake consultancy work and services in respect to the advertising and promotion of business opportunities in Kenya on behalf of the Government of Kenya through the Ministry of Trade. The project was undertaken by the plaintiff in three phases and he was subsequently issued with Government Local Service Orders (LPOs) for Phases I and II**.** Phase I & II was finalized and settled.

3542) The contract ended on 9th June, 2004 but the firm continued advertising. The then Minister of Trade and Industry wrote a letter agreeing to participate on the 3rd phase of the programme. On 31st August Ministry of Trade & Industry wrote to pending bills committee regarding non-payment of Kshs.12M claim for Tele News.

3543) The Attorney General wrote and said the then Ministry of Trade and Industry was obligated to settle the claim since the then Minister had agreed. The public procurement Oversight Authority vide letter PPD 2/20/16.VOL.II dated 23rd April 2007 observes that the matter should be referred to the Pending Bills Committee.

3544) On 17th June, 2010 Akide & Company Advocates for the Claimant vide letter Ref: KWA/CIV/008/2010 demands settlement for Ksh.52,606,872 being outstanding amount plus 3% interest since 2004. On 9th February, 2011 vide letter Ref: AG/CIV/1707/06, The Attorney General reiterates that Ministry of Trade should settle the claim but negotiate the interest part since there was no contractual obligation as to the interest payable.

3545) The Treasury, vide letter Ref: ZZ 250/03/G/(46) Dated 10th March, 2011 notified Ministry of Trade & Industry that the matter is belatedly under review with the Pending Bills Closing Committee and that final report should be awaited.

3546) On 27th July, 2011, Ministry of Trade is notified by the Attorney General vide letter Ref: AG/MOC/5/11 that the claimant has sued the ministry for breach of contract. The Ministry of Trade & Industry vide letter MOT/12/1 dated 2nd August, 2011 to the Attorney General, reiterates that the matter is being considered by the Pending Bills Closing Committee as advised by the Treasury.

3547) On 16th December, 2011 the Attorney General Vide Letter AG/MOC/9/11 observed that although there was no formal contract for Phase III correspondence between Ministry of Finance, Ministry of Trade & Industry and the State Law Office will be relied upon to form the basis of a contract and advises the Ministry of Trade to pay the contractual sum but negotiate on the interest payable.

3548) The Ministry of Trade vide letter AG/MOC/9/11 dated 25th January, 2012 to the Solicitor General reiterates that there was no contract for Phase III and also observes that the matter is under consideration with the Pending Bills Closing Committee.

3549) The plaintiff went to court for non-payment and by its judgment dated 24th July, 2012 awarded a sum of Kshs.12 million plus 26% interest since April, 2004. The Permanent Secretary (Ministry of Trade) was summoned to appear before court of 23rd October, 2012 to show cause why committal orders cannot be issued against him.

3550) By Notice of Motion dated 16th May, 2013, E. Wafula & Associates ceases to act for the plaintiff while the firm of Maosa & Company is granted leave to represent the plaintiff.
On 31st July 2013 Maosa & Company vide letter TM/LM/SI/09/1 acknowledged receipt of a letter from the Ministry's legal officer and observes that his client is willing to accept a proposed sum of Ksh.65 million on account as part payment of the court's award of Ksh.110,061,691.

3551) On 9th September, 2013 Maosa & Company Advocates vide letter ref: TM/LM/SL/09/1 to the Attorney General observes that the Principal Secretary (MEAACT) has remitted Ksh.25million. On 26th November, 2013 Maosa & Company Advocates vide letter ref: TM/LM/SL/09/1 to the MEAACT writes to claim Kshs.137 million being the outstanding amount payable. Payment of Ksh.40million was made on 09/07/2014.

3552) On 29th December, 2016 Maosa & Company Advocates vide letter Ref: TM/SSK/16 writes to the Principal Secretary – Ministry of Tourism indicating that the claim has risen to Kshs.210 million safe from Ksh.65 million that has been paid. On 17th January, 2017 vide MOT/12/1 the Principal Secretary – Ministry of Tourism seeks advice from Attorney General on viability of paying the Kshs.210 million claim.

3553) The Attorney General vide letter Ref: AG/GC/MOC/124/12 dated 17th January, 2017 observes the claim should be settled. Total payment to-date amounts to Kshs.285 million. The department need the Attorney General to advise on any outstanding amount to date since by 04th March 2020 the lawyer of the clamant had indicated that the amount due was Kshs.67,726,946.84.

3554) The State Department has sought direction from the Solicitor General on the possibility of transferring the matter to the State Department for Trade.

Reasons why the Attorney Generals advice was not adhered to

1. Negotiations could not take place because the matter had been referred to the Pending Bills Committee.
2. Before negotiations could be done the claimant filed the case in court.

Further Submission by the Accounting Officer

3555) The Accounting Officer further informed the Committee that contrary to her earlier submission, there was no any written letter from the then Minister for Trade and Industry requesting to extend the contract for Tele-News Africa & Atlanta Representatives to cover Phase III of the Programme: Promotion of Kenya as an investment destination.

3556) Further, the Accounting Officer informed the Committee that the State Department was willing and ready to make the final payments to settle the matter. The Accounting Officer undertook to settle the matter as a pending bill in the financial year 2020/2021 and have it charged as a first charge.

Committee Observations and findings

3557) The Committee observed and found that:

1) The Ministry paid a further Ksh. 70 million in the year 2017/18 in addition to Kshs.150million paid in June 2017 bringing the Total Amount to Ksh. 285 million;
2) The Company proceeded with the advertising and promotion of business opportunities in Kenya without a valid contract;
3) The State Department has re-directed the matter to State Department of Trade;
4) In addition, the then Minister of Trade and Industry did not write any letter to extend the contract of the mentioned company (Telenews Africa and Atlantic Region) as earlier alleged;

5) The State Department was in negotiations with Lawyers of Telenews Africa and Atlantic Region to halt interest accrual as it engages the National Treasury to avail funds to settle the pending bill; and
6) The State Department was willing and ready to make the final payments to settle the matter. The Accounting Officer undertook to settle the matter as a pending bill in the financial year 2020/2021 as a first charge; and
7) The matter therefore remained unresolved.

Committee Recommendation

3558) The Committee recommended that:

1) **The Accounting Officer must, within one month upon adoption of this report by the House, settle in full the pending bill in favour of Telenews Africa and Atlantic Region to save the public from further losses by way of accruing interest and potential legal liabilities.**
2) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills exist, they should form the first charge in the budget of the subsequent year.**

1239. Budget Under Absorption

3559) Review of the budget and actual expenditure of the Ministry revealed that the following expense items had significant under absorption;

Expense Item	Final Budget KSh.	Actual Expense KSh.	Variance KSh.	Variance %
Subsidies	116,600,000	-	116,600,000	100%
Transfer to other Government Units	2,729,868,517	2,253,782,739	476,085,778	17%
Acquisition of Assets	253,021,941	189,904,622	63,117,319	25%
Goods and Services	361,586,673	343,049,093	18,537,580	5%
Total	**3,689,008,614**	**3,015,059,025**	**673,971,828**	**18%**

3560) The under-absorption of KSh.673,971,828 slowed down implementation of activities and projects in the Ministry's annual work plan that the funds were budgeted to finance and thus constrained the delivery of the Ministry's services to the public. Consequently, the Ministry may not have achieved its objectives for the year ended 30 June 2018.

Committee Observations and Findings

3561) The Committee observed and found that:

1) A tourism recovery budget was proposed and passed by Parliament as a one-line item that various expenditures were funded from;
2) Currently, tourism recovery had been unbundled and each tourism project had an individual code/line in the budget; and
3) The Committee marked the matter as resolved.

Committee Recommendation

3562) The Committee recommended that:

The matter be resolved.

1240. Expenditure Not Related to the Ministry's Mandate

3563) Included in the use of goods and services figure of Ksh.343,049,093 for the year ended 30 June 2018 is Ksh.63,731,876 spent on various items detailed below:

Nature of Item	Specific Expenditure	Amount KSh.
Hospitality Supplies and Services	Token of Appreciation Task Force	720,000
Specialized materials and services	Task force	5,001,600
Foreign Travel	Task Force	320,100
Operating Expenses	Task Force	3,753,000
Acquisition of Assets-Tourism Recovery	Task Force (Various)	18,172,627
Acquisition of Assets-Tourism Recovery	lmprest Surrender	35,764,550
Total		**63,731,876**

3564) However, it was not possible to establish how the expenditure of Ksh.63,731,876 spent on these items was related to the Ministry's mandate of tourism recovery and development

Submission by the Accounting Officer

3565) The Accounting Officer submitted that Tourism recovery taskforce was established in May 2014 by the Cabinet Secretary for Ministry of East African Affairs, Commerce and Tourism via Gazette Notice No.4611. This was after Tourist arrivals in Kenya continued to decline and there was need to examine the challenges affecting the sector and come up with an immediate recovery strategy.

3566) A tourism recovery budget was proposed and passed by parliament. In the Government Chart of accounts, it was not possible to get an appropriate item to define Tourism Recovery and Acquisition for Assets was proposed to hold the recovery basket. It is from this one-line item that various expenditures were funded from. Currently tourism recovery has been unbundled and each tourism project has an individual code/line in the budget. The imprest raised from the tourism recovery item were utilised for expenditure related to the overall ministry's mandate. Impressts were issued and surrendered as per existing regulations on imprest management. Currently all imprests are issued under the recurrent budget.

Committee Observations and Findings

3567) The Committee observed and found that:

1) A tourism recovery budget was proposed and passed by Parliament as a one-line item that various expenditures were funded from;
2) Currently, tourism recovery had been unbundled and each tourism project had an individual code/line in the budget; and
3) The Committee marked the matter as resolved.

Committee Recommendation

3568) The Committee recommended that:

The matter be resolved.

1241. Unresolved Prior Year Issue

3569) The Committee observed that the State Department appeared before the Committee on 18th April 2019 and responded to this matter. The matter was resolved in the committee recommendations for the 2016/2017 audit hearing.

43.0. STATE DEPARTMENT FOR PUBLIC SERVICE AND YOUTH AFFAIRS

FINANCIAL STATEMENTS FOR VOTE 1211

Mr. Julius K. Korir, the Accounting Officer for the State Department of Youth Affairs and Ms. Mary Kimonye, the Accounting Officer for State Department for Public Service appeared before the Committee on 20th May 2020, 14th October, 2020, 16th January, 2021 and 17th January, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Youth Affairs (Vote 1211) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions tabled by the Accounting Officers are annexed to this report).

Ms. Mary Kimonye, Principal Secretary and the Accounting Officer for the State Department for Public Service appeared before the Committee accompanied by the following officers: -

1. Ms. Matilda Sakwa	-	Director General, NYS
2. Mr. Mukhtar Abdi, MBS	-	Administrative Secretary
3. Ms. Florence W. Kirumba	-	Senior Ass. Accountant General
4. Mr. John O. Olima	-	Senior Principal Finance Officer – NYS
5. Mr. Raymond Ochieng	-	Secretary Youth
6. Mr. James Kairu	-	Director, Supply Chain Mgnt. Services - NYS
7. Mr. Lukas K. Mwanza	-	Director Operations
8. Mr. Peter Kabebe	-	Head of Accounts
9. Ms. Faith W. Nthiga	-	Principal Accountant
10. Mr. James Buyekane	-	Huduma
11. Ms. Christine K. Njiru	-	Public Service
12. Mr. Elias K. Macharia	-	Assistant Accountant General – NYS
13. Mr. Eric Kirui	-	Finance Officer
14. Mr. Benrodgers Milaila	-	Public Service
15. Mr. Isaac N. Ngige	-	Parliamentary Liaison Officer
16. Ms. Florence Nyagah	-	PA to PS

Basis for Disclaimer of Opinion

1241.Cash and Cash Equivalents

1241.1 Bank Balances

3570) The statement of assets and liabilities as at 30 June 2018 reflects total financial assets of KSh.1,356,002,372 comprising of KSh.1,347,099,137, KSh.1,040,770 and KSh.7,862,465 relating to bank balances, cash on hand and outstanding imprests respectively. However, the following anomalies were observed in relation to the balances;

i.) The financial statements reflect an account balance of KSh.704,956,228 held at a local bank relating to Huduma Cohorts Saccos' outstanding balances whose detailed analysis provided supports KSh.438,834,280 leaving an unreconciled and unsupported balance of KSh.266,121,948.

ii.) The Board of Survey Certificate for Central Bank of Kenya Deposits account dated 1 July 2018 shows a bank balance of KSh.416,412,170 as at 30 June 2018 while the reported cash book balance is KSh.420,082,870 leading to an unexplained and unreconciled variance of KSh.3,670,700.

iii.) The bank reconciliation statement for Director General's NYS account held at a local bank, reflects payments totaling to KSh.241,350,937 relating to payments in the cash book not in bank statement all of which are over six (6) months old and hence stale. No explanation has been provided for failure to reverse the stale cheques. Further, the bank reconciliation statement includes payments in the bank statement not reflected in the cash book totaling to KSh.283,926,488 which have been outstanding for more than six (6) months. No explanation has been given for failure to reconcile the outstanding items.

iv.) The bank reconciliation statement for Central Bank Development account reflects payments in cash book not in bank statement of KSh.11,020,767 out of which payments amounting to KSh.145,727 are over six (6) months old hence stale. No explanation has been provided for failure to reverse the stale cheques. Further, included in the payments in the bank statement not in the cash book are payments totaling to KSh.1,173,573 which have been outstanding for more than six (6) months hence stale. No explanation has been given for failure to reconcile the items. 500 In addition, receipts in the cash book not in bank statements of KSh.1,194,232 which have been outstanding for more than six (6) months. No explanation has been provided for failure to clear the items.

v.) The cash and cash equivalents balance of KSh.1,348,139,907 excludes National Youth Service Huduma Academy, Yatta which had an opening balance of KSh.10,674,804 as at 1 August 2017 and for which the bank statement provided shows several withdrawals and zero deposits. No cash book, bank reconciliation, certificate of bank balance and board of survey report have been provided for audit review.

vi.) Although management indicate that it is a public school run by an Independent Board of Governors, no evidence in support of this assertion has been provided for audit review.

Submission by the Accounting Officer

2977) The Accounting Officer submitted as follows:

i. The Accounting Officer submitted the list of beneficiaries in softcopy due to the volume of the hardcopy for perusal by the Committee. The list was verified by the Auditor General.

ii. The Accounting Officer submitted that it was not true that the bank balance on 1st July 2018 differs with cash book balance leading to variance of Kshs.3,670,700.00. The Audit report was erroneous since the correct balance as the cash balance was Kshs. 416,412,170 which is reported in the financial statement. The Board of Survey Certificate reflecting a bank balance which differs with cash book balance by Kshs.3,670,700 was provided.

iii. The Accounting Officer submitted that it was true there were unreconciled items reflected as payments in bank statements not in cashbook. The cheques are written as one (block figure) and a list of beneficiaries is attached together with the cheque and presented to the bank for payment. The bank pays the beneficiaries as per the list to the cheque and therefore the cheque will never be cleared as one cheque as is expected.

Individual beneficiaries will be paid by the bank. Payment in bank statements will also not appear in the cash book hence the reason for uncleared cheques. Therefore, there will be an offsetting effect since the transactions relates to each other. The reconciliation would have knocked out the related transactions and therefore these items would not have appeared in the reconciliation statement.

iv. The Accounting Officer submitted that the clearance of these items have so far been done as per Bank reconciliation provided in support of the same. The Auditor General has verified the same.

v. The Accounting Officer submitted that the Director General account acts as a deposit account. It receives money on behalf and also pays to the respective beneficiaries. In this case, the reconciliation was done with balances as at 30th June, 2018. However, Treasury gave a window to pay for two weeks and this affected the balances that were taken and considered for financial reporting. The reconciliation has been revised and attached for perusal by the Committee.

vi. The Accounting Officer submitted that the National Youth Service Huduma Academy was a Public School and that its account was operated by an independent board.

Committee Observations and findings

2978) The Committee observed and found that:

1) The Accounting Officer eventually provided a list of beneficiaries in softcopy summing up to Kshs.704,956,228 The list was verified by the Auditor General;
2) The management had given an explanation of the variance as an error which did not affect the reported figure. The Board of Survey Certificate reflected a bank balance which differed with cash book balance by Kshs.3,670,700. The cashbook balance was correct;
3) The cheques were issued as a block figure but at the payment point the individuals were paid smaller amounts. The stale cheques worth Kshs.241,350,937 which have been reversed and the matter cleared;
4) In addition, the payments worth Kshs.1,367,805 which had been outstanding for more than six (6) months ware done and the verified Bank reconciliation provided in support. However, the cashbook was not provided;
5) In regard to the variance of Kshs.34,335,795 which has not been adjusted or reconciled, the Committee observed that the corrected bank reconciliation had been provided to support the reported figures;
6) Finally, the Certificate of registration to show that the school is independent has been provided and confirmed; and
7) The matter was therefore resolved subject to clearance of issues number 2 and 4.

Committee Recommendations

2979) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1241.2 Unrecorded Receipts on Authority to Incur Expenditure (AIEs) Balances

2980) The State Department of Public Service and Youth Affairs issued Authority to Incur Expenditure (AIEs) to various field stations and charged the expenditure returns to various expenditure item codes in line with budget. However, analysis of AIE returns and field inspection reports for seven Stations shows unspent balances as follows:

Station	**Amounts Received Kshs.**	**Expenditure Kshs.**	**Balance Kshs.**
Yatta Field Unit	151,832,442	150,842,141	990,301
Athi River Station	60,206,690	59,267,329	939,361
Tumaini Field unit	25,882,450	25,614,864	267,586
Total			**2,197,248**

2981) Although the amount represented cash and bank balances at the field stations, the balance were not disclosed as cash and cash equivalents as at 30 June 2018.

Submission by the Accounting Officer

2982) The Accounting Officer submitted that it was true an amount of Kshs.2,197,248 was not disclosed as cash and cash equivalent. It was an omission though the same was credited back to the Ministry account the following month. Given the money was swept back to Treasury re-adjusting the financial statement will mean re-opening the IFMIS for that year to do adjustment. However no money was lost, all monies was accounted for.

Committee Observations and Findings

2983) The Committee observed and found that:

1) The Accounting Officer failed to ensure that he availed supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.
2) The Committee however marked the matter as resolved.

Committee Recommendations

2984) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

2) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1241.3 Undisclosed Bank Accounts

2985)

i. The statement of cash flows reflects cash and cash equivalents account balance as at 30th June 2018 of Kshs.1,348,139,907 as analyzed under notes 10A and 10B to the financial statements. The certificate of bank balances issued to the State Department by Central Bank of Kenya had a balance of Kshs.1,400,000 held in A/C No.100303336 at Central Bank of Kenya as at 30th June 2018 which was not included in the bank balances reflected on the financial statements.

Submission by the Accounting Officer

2986) The Accounting Officer submitted that it was true that the certificate of Bank Balances from Central Bank reflect 5 (five) banks Accounts. It is also true that the State Department reflected 4 Bank Accounts in the Central Bank of Kenya.

2987)

ii. The 5th Account i.e. Account No.1000303336 – CBK165 is not actually a Bank Account but a holding/suspense Account for withdrawal of cash for office use. The Central Bank of Kenya credits this Account when the State Department gives instructions of intention to withdraw cash. If no withdrawal is done by 30th June of the financial year, the Bank reverts this cash to the Recurrent Account. It is also good to note that this Account does not have a separate cash book and therefore this balance was reported in Recurrent Bank Account. Copy of the bank statements are hereby attached. Further, the balance of Kshs.1,348,139,907 under cash and cash equivalents, as disclosed under note 10 to the financial statements exclude at a local bank with a closing bank balance of Kshs.1,901,179.

Submission by the Accounting Officer

2988) The Accounting Officer submitted that it was true no cash book, bank reconciliation or certificate of balance or board of survey report had been provided for audit review. This is because the account is operated by a board independent from National Youth Service. It does not receive any funds from the Service but from the fees collected from parents. It is a public school as per the copy of registration hence the Service has not control over their operations.

Committee Observations and Findings

2989) The Committee observed and found that the Accounting Officer failed to ensure that he availed supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.

Committee Recommendations

2990) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The matter be resolved.**

1245. Unsupported Expenditure

2991) The statement of receipts and payments reflects total payments totaling to Ksh.21,063,019,625 which include payment s amounting Ksh.182,718,344 whose payment vouchers were not made available for audit verification since they were being held by various investigating agencies.

2992) Under the circumstances, the payments as reflected on the statement of receipts and payments could not be confirmed to the extent of Ksh.182,718,344 represented by the missing vouchers.

Submission by the Accounting Officer

2993) The Accounting Officer submitted that payment vouchers amounting to this Ksh.182,718,344.00 are held by the investigating agencies and the letter requesting for them for audit verification and the list of payment vouchers with DCI were attached for perusal by the Committee.

Committee Observations and Findings

2994) The Committee observed and found that:

1) The Accounting failed to ensure that duplicate copies of the payments vouchers are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) The Accounting Officer breached the requirements of section 21 of the Public Audit act 2015 by declining to provide official documents to the Auditor General; and
3) The matter therefore remained unresolved.

Committee Recommendations

2995) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above-stated breaches.**
2) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

3) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1246. Accounts Payables

1246.1 Unsupported Staff Accounts Payables

2996) As reported in 2016/2017, the statement of assets and liabilities reflects a balance of Ksh.1,300,422 (2016/2017-Ksh.789,066,011) against accounts payables as disclosed under note 12 to the financial statements. The balance consists of outstanding payables for deposits, National Youth Service –Service men and women savings and allowances, and NYS Huduma Cohorts totaling Ksh.416,412,170 (2016/17-Ksh.231,544,785), Ksh.71,661,430 (2016-17-Ksh.114,630,549) and Ksh.812,400,822(2016/17 Ksh.442,890,677), respectively.

2997) However, the listings in support of amounts owing to National Youth Service –service men and women savings and allowances and National Youth Service – Huduma Cohorts of Ksh.71,661,430 (2016/17 Ksh.114,630,549) and Ksh.812,400,822 (2016/17 Ksh.442,890,677) respectively have not been provided for audit review.

2998) Consequently, the accuracy and completeness of the account payables balance of Ksh.1,300,474,422 could not be confirmed.

Submission by the Accounting Officer

2999) The Accounting Officer submitted that it was true that listing to servicemen/women and Huduma Cohorts was not provided. Due to the bulkiness of the list, a soft copy of the same was provided for your perusal.

Committee Observations and Findings

3000) The Committee obxserved and found that:

1) The Accounting failed to ensure that duplicate copies of listing to servicemen/women and Huduma Cohorts are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) A year later, the Management provided a breakdown of the current status showing the amounts outstanding to be paid after completion of the national service; and
3) The matter is therefore marked as resolved.

Committee Recommendations

3001) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1246.2 Accounts Payable – Hire of Equipment

3002) The statement of assets and liabilities reflects a balance of Ksh.1,300,474,422 against accounts payable as disclosed under note 12 to the financial statements which relates to amounts payable to youths engaged in the Youth Empowerment Programme for the services rendered and deposits owed to contractors. However, the balance excludes amounts owed to the Mechanical and Transport Fund for services rendered of Ksh.1,361,855,934 relating to hire of equipment charge of borrowing from the fund.

3003) Consequently, the accuracy and completeness of the accounts payables balance of Ksh.1,300,474,422 as at 30th June 2018 could not be confirmed.

Submission by the Accounting Officer

3004) The Accounting Officer submitted that it was true Mechanical and Transport Fund and Ksh.1,361,855,934 as the hire of machinery were never factored. This could have been due to the fact that the MTB had not raised the invoice to the programme and thus the cost accrued was omitted. The Officer in Charge MTB should have raised the claim for the hire of the machinery to qualify as payables which was done the following financial year.

Committee Observations and Findings

3005) The Committee observed and found that:

1) The Accounting Officer failed to keep up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) The Accounting Officer failed to disclose bills and no amendments have been made on other important disclosures to the financial statements;
3) The debt did not relate to one financial year 2017/2018. However, the amount relating to the earlier financial years were not included in the financial statements; and
4) The matter therefore remained unresolved.

Committee Recommendations

3006) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above-stated breaches.**
2) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1247. Unreported and Unsupported Pending Bills

3007) Note 16.1 on other important disclosures to the financial statements reflects a balance of Ksh.967,434,265 disclosed as outstanding pending bills as at 30th June 2018. However, field verification at sampled stations inspected during the month of April 2019 relating to outstanding pending bills as at 30th June 2018 revealed that bills totaling to Ksh.1,586,208,155 are held at seven (7) Stations as compared to the reported balance in the financial statement of Ksh.384,682,494 relating to the National Youth Service (NYS) resulting to an unexplained variance of Ksh.1,201,525,66.

Submission by the Accounting Officer

3008) The Accounting Officer submitted that by the closure of the financial year 2017/18 the field units had not given all the pending bills in their respective units hence the understatement of the amount of pending bills. These were later forwarded and vetted by the Inter Agency Committee – pending bills and exact amounts.

Committee Observations and Findings

3009) The Committee observed and found that:

1) The Accounting Officer failed to keep up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
2) The pending bills were never disclosed in the financial statements; and
3) The matter therefore remained unresolved.

Committee Recommendations

3010) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above-stated breaches.**
2) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
4) **The Accounting Officer during the financial year under review (2017/2018) should be penalized for failure to comply with the provisions of Section 70 (3) and (4) of the Public Procurement and Asset Disposal Act of 2015 and Section 9 (1) (e) of the Public Audit Act, 2015.**

1248. Proceed from Sale of Assets – Unrecorded Revenue

3011) The statement of receipts and payments and note 3 to the financial statements reflects proceeds from sale of assets balance of Ksh.11,465,422 as at 30 June 2018. However, analysis of revenue collected at four (4) field stations during field inspection carried out in the month of April 2019 revealed that Ksh.41,207,405 was received during the financial year ended 30th June 2018 as detailed below:-

Station	AIA Collected/Revenue (Ksh)
Gilgil College	5,795,075
Yatta field unit	241,775
Athi River field unit	22,189,005
Tumaini farm unit	12,981,550
Total	**41,207,405**

3012) These revenue has not been disclosed in the financial statements for the State Department for the financial year ended 30th June 2018. In addition examination of official receipt books maintained at the State Department revealed that Ksh.978,498 received in relation to revenue were omitted from the rep0rted balance for sale of assets.

3013) In consequence, the accuracy and completeness of the figure for total receipts from sale of assets of Ksh.11,465,422 and accuracy of Ksh.41,207,405 undisclosed revenue could not be ascertained as at 30th June 2018.

Submission by the Accounting Officer

3014) The Accounting Officer submitted that it was true the units operate on cash basis and thus they recognize the revenue when the cash/funds are received and deposited into the account. In this scenario, the amount deposited into the Ministry account as at 30 June were taken into account and what was paid after June 30th is reported in the following year. The money was deposited in the old bank account after the split of the Ministry.

Committee Observations and Findings

3015) The Committee observed and found that:

1) The State Department and its Units all operate on IPSAS cash basis, there was no harmonization of their accounts;
2) The proceeds from sale of assets were not reported in the financial statements;
3) There was no disclosure of payments made from other parties who receive services from NYS particularly security at KICC and KEMSA;
4) The matter therefore remained unresolved.

Committee Recommendations

3016) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above-stated breaches.**
2) **The Cabinet Secretary for National Treasury should always ensure that there is a designated receiver of revenue for all national government entities in line with the provisions of Article 209(1), (2) and (4) of the Constitution of Kenya 2010 and Section 75 of the PFM act 2012.**
3) **The Cabinet Secretary for the National Treasury MUST at all times ensure that a receiver of revenue for the national government provides monthly statements to the National Treasury and the Commission on Revenue Allocation pursuant to section 76 (3) of the Public Finance Management Act 2012.**

1249. Unauthorized, Unreported and Unaccounted for Borrowing

3017) The State Department borrowed Ksh.1,114,827,220 from the Mechanical and Transport Fund - MTB through internal Memos Ref.NYS/ED/9/27 Vol.VI (67) dated 15th December, 2017 and NYS/FIN/2/3 dated 3rd October 2017. The memo was written by the Director General- National Youth Service to the Principal Secretary who approved the request on 18th December 2017. The amounts were borrowed in two batches of Ksh.478,927,907 and Ksh.635,899,313 during the year under review. The first batch of Ksh.478,927,907 has since been refunded to the Mechanical and transport Fund bank account. However, the second batch of Ksh.635,899,313 which was purportedly borrowed to settle outstanding tuition fees and accommodation claims from various Technical and Vocational training Institutions (TVET's) for January and September 2017 in respect of trainees all totaling to Ksh.635,899,313 has not been reported in the statement of receipts and payments and the Statement of Assets and Liabilities have not disclosed these receipts and corresponding expenditures neither has the outstanding amount been disclosed as a liability.

3018) Consequently, the accuracy and completeness of the total receipts figure of Ksh.21,020,670,673 and total payments figure of Ksh.21,063,019,625 could not be confirmed.

Submission by the Accounting Officer

3019) The Accounting Officer submitted that it was true this was a measure to counter the protest from TVET institutions and fear of dismissal of our servicemen/women by the institutions. The reporting was not done since this was an internal arrangement to rescue the situation. It was a financial support rather than a debt. However, this has been cleared and fund refunded to MTB fund accounts as agreed.

Committee Observations and Findings

3020) The Committee observed and found that:

1) The legality and reporting aspect of the borrowings have been addressed and the expenditure by the TVETs reflected in the financial statements;
2) The matter therefore marked as resolved.

Committee Recommendations

3021) The Committee recommended that:

The matter be resolved.

1250. Wrong Account Charge and or Unauthorized Excess Vote

3022) During the year under review, the statement of receipts and payments reflects a figure of Ksh.5,850,009,548 under use of goods and services. The accounts balance relates to various expenditure account codes as disclosed under 5 to the financial statements. However, analysis of the transactions as recorded in ledgers reveals that the State Department charged expenditure items to other account codes other than the codes as per the approved budget contrary to the requirements of Section 43(2)(c) of the Public Management Act 2012 as tabulated:-

Description	Account Balance Ksh.	Wrong Account Charge Ksh.	% Wrong Charge
Communication supplies and serviced	55,371,414	5,090,552	10
Domestic travel and subsistence	131,694,936	19,272,793	15
Foreign travel and subsistence	19,603,279	3,737,595	19
Printing, advertising and information supplies and services	15,670,300	2,352,846	16
Office and General supplies	31,095,644	7,246,870	23
Routine maintenance – other assets	169,930,360	167,450,385	97
Utilities, Supplies and services	184,311,698	128,698,354	70
Rentals of produced assets	528,405,650	373,377,327	71

3023) No satisfactory explanation has been provided for failure to obtain approval for reallocation of funds as required under law.

Submission by the Accounting Officer

3024) The Accounting Officer submitted that this was towards closer of the financial year and the affected item had some balances. In order to avoid more pending bills, it was prudent to utilize these items balances. Also, the development budget had some items which were recurrent in nature, hence using them there did not go against the reallocation requirement.

Committee Observations and Findings

3025) The Committee observed and found that:

1) The various budget items in the NYS youth empowerment programme such as hire of equipment, plants and machinery, which are procurement items were charged into wrong account items. The motive behind hiding these items in other accounts was not explained;
2) The Management had not provided an explanation for failure to seek approval from the National Treasury for reallocation of funds;
3) The matter therefore remained unresolved.

Committee Recommendations

3026) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
3) **The Accounting Officer during the financial year under review (2017/2018) should be held liable for failure to prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012**

and therefore committing offenses of financial misconduct pursuant to section 197 (1) (k) and (l).

1251. Consultancy Services at National Youth Service

1251.1 Systems Development Consultancy Services by a Firm

3027) The State Department contracted a consultancy firm for provision of consultancy services in systems development for the National Youth Service at a contract sum of Ksh.243,160,464. The firm executed the project and exited, however, no documentation in relation to the milestones achieved and outputs from the execution have been provided for audit review.

3028) Further, it was not possible to confirm and evaluate how the contract was concluded, proof of deliverables achieved and approved by inspection and acceptance committee relating to the payments of Ksh.112,826,454 so far made and outstanding amounts of Ksh.56,413,228 listed in pending bills for the financial year 2017/2018.

Submission by the Accounting Officer

3029) The Accounting Officer submitted that it was true this was an engagement with a consultancy firm – Price Waterhouse Coopers for a contract sum of Ksh.243,160,464. The contract agreement and deliverable were attached for perusal by the Committee. The report on the deliverables to the Principal Secretary dated 21st November, 2018 was also appended.

Committee Observations and Findings

3030) The Committee observed and found that:

1) The acceptance certificates had since been provided; and
2) The matter therefore marked as resolved.

Committee Recommendations

3031) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
2) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1251.2 Consultancy Services by Individuals

3032) The State Department engaged three (3) consultants for a duration of three years to provide services on legal, ICT and internal audit at contract sums of KSh.19,404,000, KSh.27,324,000 and KSh.19,404,000 respectively. As at 30 June 2018, a total of KSh.23,926,224 had been paid in respect of these contracts notwithstanding the fact that the State Department had an internal audit department, an ICT department and legal office section as well as advice provided by the Attorney General's Office. The contacts were clearly duplication of existing roles that had existing employees undertaking the same duties.

3033) Further, no evidence of milestones and any outputs achieved from the above consultancies have been provided for audit verification and therefore casts doubts on value for money received from these contracts.

3034) Consequently, it was not possible to confirm whether public funds were spent in a lawful and effective way as required under Article 229 (6) of the Constitution of Kenya, and non-compliance with Article 232(1) (b) of the Constitution on utilization of public resources.

Submission by the Accounting Officer

3035) The Accounting Officer submitted that the Contracts for consultancy services for Internal Audit, ICT and Legal Services with milestones and outputs were provided and that there was no duplication of roles because at the time, the Service had specific duty in the three (3) areas.

Committee Observations and Findings

3036) The Committee observed and found that:

1) The explanation by the Accounting Officer on the duplicity of roles Internal Audit, ICT and Legal Services at the NYS at a total sum of Ksh.70,654,224 was not satisfactory;
2) The public funds were not spent in a lawful and effective way as required under Article 229 (6) of the Constitution of Kenya, and in compliance with Article 232(1)(b) of the Constitution on utilization of public resources; and
3) The matter therefore remained unresolved.

Committee Recommendations

3037) The Committee recommended that:

1) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for incurring expenditure of Ksh.70,654,224 and entering into a contract for procurement without lawful tender documents contrary to the provisions of section 196(1) of the Public Finance Management Act, 2012.**
2) **Where the Accounting Officer fails to provide proper explanation, the Accounting Officer (during the period under review) should be surcharged Ksh.70,654,224 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

1252. Rehabilitation of Civil Works – Unjustified Procurement of Building Materials

3038) The rehabilitation of civil works expenditure of Ksh.1,052,626,086 as reflected on note 9 to the financial statements include purchase of building materials worth Ksh.532,950,990 procured in the financial year 2016/2017 but paid for in the current financial year. However, physical inspection at the stores undertaken in January 2019 showed that materials worth Ksh.506,630,090 which included 357 Jericans of white spirit valued Ksh.649,740 already expired at the date of verification remained unutilized over two years with no indication of when they were to be utilized.

3039) Consequently, no justification of the procurement, payment and non-use of building materials worth Ksh.532,950,990 which have remained unused for more than two years has been provided.

Submission by the Accounting Officer

3040) The Accounting Officer submitted that it was true these building materials were meant for Karen Market. The market project stalled and thus these materials became obsolete. The same have now been disposed of as it became of no use. The materials were issued as per the attached stores ledger and store control cards.

Committee Observations and Findings

3041) The Committee observed and found that:

1) The Accounting Officer procured building materials worth Ksh.532,950,990 which have remained unused for more than two years and thus becoming obsolete;
2) There was negligence leading to loss of public funds to the tune of Ksh.532,950,990; and
3) The matter therefore remained unresolved.

Committee Recommendations

3042) The Committee recommended that:

1) **The Accounting Officer must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide an explanation for incurring expenditure of Ksh.532,950,990 and entering into a contract for procurement without lawful tender documents contrary to the provisions of section 196(1) of the Public Finance Management Act, 2012.**
3) **Where the Accounting Officer fails to provide proper explanation, the Accounting Officer (during the period under review) should be surcharged Ksh.532,950,990 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

1253. Unsupported, Unaccounted and Lack of Value for Money on Field Stations Expenditure

3043) The audit field inspection and verification exercise was undertaken in seven (7) field stations namely; Naivasha, Gilgil, Tumaini, Yatta, Mavoloni, Mombasa and Mwatate in April 2019 and the following were the findings:

1253.1 Yatta Field Station – Unsupported and Unaccounted Materials Expenditure

3044) The station constructed six temporary hostels, two classrooms and three kitchen at a cost of KSh.27,814,990 during the financial year 2017/2018. The station procured materials from various suppliers prequalified at the sub-county and engaged servicemen and servicewomen to provide labour for construction works. However, the bills of quantities provided for audit verification showed that each hostel was supposed to cost KSh.1,319,070. Excluding labour giving a total of KSh.7,914,420 while each classroom was to cost KSh.640,650 excluding labour giving a total of KSh.1,281,300 and each kitchen was to cost KSh.333,700 excluding labour giving a total KSh.1,001,100. The total cost of the constructions as per the approved bill of quantities was KSh.10,196,820 resulting in unexplained variance of KSh.17,618,170.

3045) No explanation has been provided for the high cost above the engineers estimate from Ministry of Public Works.

3046) In addition, the management indicated that all the projects were complete and in use, however, it was observed that the kitchen floors and the external works were still incomplete raising doubt as to the quality of workmanship and if the services of county public works officers were utilized to supervise and certify the construction projects. As a result, it was not possible to confirm whether there was value for money on the expenditure of KSh.27,814,990.

Submission by the Accounting Officer

3047) The NYS at first planned to construct six temporary hostels, two classrooms and three bathrooms as observed by the auditors. However, due to increased demand for facilities as occasioned by the progressive increase of servicemen and women in the Service between 2014-2019**.** This created a need for additional facilities and NYS constructed the said facilities to cater for the increased number of servicemen and women. The additional facilities included the following:

- 3 No. hostels
- 1 No. store/kitchen
- 4 No. classrooms
- Toilets/bathrooms, 38 doors
- Servicewomen perimeter wall
- Renovation of 3 No. barracks for servicewomen

3048) This increased the original price from KSh.10,196,820 to KSh.27,814,990. The additional KSh.17,618,170 (variance) being for the additional facilities as enumerated earlier. For these additional facilities the Bill of Quantities were provided by the Works Officers at the sub counties. The works officers also supervised the constructions. The services of sub county works officer were engaged in supervision and coming up with the bill of quantities (BQs). Currently the project is complete and in use.

Committee Observations and Findings

3049) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The matter therefore marked as resolved.

Committee Recommendations

3050) The Committee recommended that:
The matter be resolved.

1253.2 Mwatate Field Station

1253.2.1 Construction of Barracks and Latrine

3051) During the financial year 2017/2018 the Station constructed four (4) Barracks at a cost of KSh.9,857,150 and a three-door pit latrine and a bathroom at a cost of KSh.2,000,000. However, physical inspection of the buildings revealed that the latrine with three (3) doors and a bathroom with two (2) doors which were constructed at a cost of KSh.2,000,000 had not been fixed with doors as per the bills of quantities yet the contractor had been paid the full amount including retention monies despite the works being incomplete. Further, the barracks had fallen windows and doors and the quality of materials used and workmanship is doubtful.

3052) Consequently, it was not possible to confirm whether public funds were applied lawfully and in an effective manner on the expenditure of KSh.9,857,150 as required under Article 229(6) of the Constitution of Kenya 2010.

Submission by the Accounting Officer

3053) The Accounting Officer admitted that during financial year 2017/2018 there were two construction projects for 4 barracks, 3 door latrines and 3 door bathrooms. Quotations were floated and the contractors were competitively selected and works were awarded.

3054) On the issue of 2 doors instead of three as per the Bill of Quantities (BOQ), the matter arose due to the high number of servicemen using the bathrooms. It was discussed by the committee and agreed with the knowledge of the quantity surveyor that the size of the bathrooms be increased and the doors be reduced to two. On lack of bathroom doors, it was noted that there was no provision for urinals in the BOQs. As a result, the works were revised to include a 4ft wall constructed to serve as a urinal and barrier. Minutes dated 25 June 2018 were provided for perusal by the Committee.

3055) The barracks were properly constructed as per the bill of quantities. However, the breaking of two window panes and one door happened after retention fee had already been paid. It was as a result of the large number of servicemen and women posted to Mwatate after pass-out and were new to the environment. The servicemen arrived at night and due to lack of light the windows were hit by their double decker beds as they were moving in, also in the process one door hinge broke as a result of trying to open the door towards the wrong direction.

Committee Observations and Findings

3056) The Committee observed and found that:

1) It was satisfied with the explanation provided by the Accounting Officer.
2) The matter therefore marked as resolved.

Committee Recommendation

3057) The Committee recommended that:

The matter be resolved.

1253.2.2 Stalled Water Borehole Project

3058) The station incurred KSh.1,740,000 for purchase of water, which the field station has to track from 120 kilometers daily using a water bowser. It was observed that two hydrological surveys for sinking a borehole were done by Kenya Water Institute and a consultant in December 2017 and 2 February 2018 which identified the locations for the well at cost of KSh.65,000. The site identified by Kenya Water Institute was drilled and found to be dry while the second site is yet to be drilled. Additional surveys had been done and possible locations for the well identified. However, field inspection carried out in the month of April 2019 revealed that no work had started at the second identified site yet the station continues to incur heavy expenditure on purchase and transportation of water.

3059) Consequently, it was not possible to confirm that public funds are being utilized in an efficient, effective and in an economical manner as required under Article 232 (1) (b) of the constitution of Kenya 2010.

Submission by the Accounting Officer

3060) The Accounting officer admitted that water is a major problem in Mwatate unit and the Service has been incurring a lot of expenses sourcing water from water vendors. The nearest water source is 121km and accessed under very difficult terrain.

3061) The drilling of the second borehole has not started because the land ownership is in dispute and once the land issue is resolved the State Department will drill a borehole.

Committee Observations and Findings

3062) The Committee observed and found that:

1) The State Department did not indict the Kenya Water Institute over Ksh.65,000 and other costs arising from drilling of a dry well;
2) The public funds were not spent in a lawful and effective way as required under Article 229(6) of the Constitution of Kenya, and in compliance with Article 232(1)(b) of the Constitution on utilization of public resources; and
3) The matter therefore remained unresolved.

Committee Recommendations

3063) The Committee recommended that:

1) **Within six months upon adoption of this report by the House, the Accounting Officer should ensure that a new water bore hole is drilled and equipped to serve the institution and stop further expenditures on water purchase from vendors.**

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

1253.3 Gilgil Field Station-Payment of Mileage Allowance for Recruits

3064) The Gilgil college paid mileage allowance for recruits first batch course 2/2017 totaling to KSh.3,636,459 and supported the payment voucher by a letter dated 30 October 2017. However, there was no evidence of authorization of the payments of the mileage allowance as required.

3065) In addition, the list of payees provided for audit review showed that most of the recruits had not received their allowances despite the whole amount being expensed as paid in the accounting records. No explanation has been provided for the anomaly.

3066) Consequently, the expenditure of KSh.3,636,459 on mileage allowance for recruits could not be ascertained.

Submission by the Accounting Officer

3067) At the time of processing of this reimbursement, the recruits had passed out and were posted to various NYS Units yet the money had been sent to Gilgil. They have since been identified and paid in the new posting stations vide PV No. 325 of KShs.3,636,459.80 which was duly authorised by the AIE holder.

Committee Observations and Findings

3068) The Committee observed and found that:

1) The explanation provided by the Accounting Officer was satisfactory.
2) The matter therefore marked as resolved.

Committee Recommendations

3069) The Committee recommended that:

The matter be resolved.

1253.4 Capital Expenditure on Rehabilitation and Civil Works at Tumaini Farm Unit

3070) Tumaini Field Unit received development expenditure of KSh.22,100,308 under item code other infrastructure and civil works. The amounts were utilized on construction of two (2) eighty (80) bed capacity barracks and construction of kitchen cum dining hall at a cost of KSh.8,781,737 and KSh.15,818,546 respectively.

1253.4.1 Construction of the Kitchen and Dining Hall

3071) Review of payment voucher Nos.1030252 and 1030229 shows that the payments were supported by two certificates both serialized as No. 3, dated 25 June 2018 with an amount of KSh.2,249,979 and 21 June 2018 with an amount of KSh.4,935,785 respectively. The certificates have differing amounts despite having been written only four (4) days apart and bearing the same certificate number.

3072) In addition, although the certificates have been stamped by the County Works department they are not signed by the responsible officer hence their authenticity could not be confirmed.

Submission by the Accounting Officer

3073) The Accounting officer admitted that two certificates were serialized as No. 3. This was an error based on the documents availed to State department. However, the certificates were for two different works and the works were certified by the mandated officer who is the County Works Officer. The County Works Officer approved the statement of payment on account and then approved the payment vouchers. There was no further expenditure outside the committed funds.

Committee Observations and Findings

3074) The Committee observed that:

1) The explanation provided by the Accounting Officer was satsifactory.
2) The matter therefore marked as resolved.

Committee Recommendations

3075) The Committee recommended that:

The matter be resolved.

1253.4.2 Construction of the 2 No. 80 Beds Capacity Barracks

3076) Review of payment voucher Nos.1030228 and 1030185 shows that the payments are supported by two certificates both serialized as No.02 dated 12 June 2018 with an amount of KSh.2,490,025 and 12 June 2018 with an amount of KSh.2,571,935 respectively. The certificates have differing amounts despite having been written on the same day and baring the same certificate number.

3077) In addition, although the certificates have been stamped by the County Works department they are not signed by the responsible officer hence their authenticity could not be confirmed.

3078) Under the circumstances, the expenditure in the inspected field stations have not been supported, accounted for or the state department gotten value for money as at 30 June 2018.

Submission by the Accounting Officer

3079) The Accounting officer admitted that the 2 payment vouchers bear the same certificate number however they are for different works as certified by County Works Officer. The County Works Officer approved the statement of payment on account and then approved the payment vouchers, hence the authorization was granted to support the payment.

Committee Observations and Findings

3080) The Committee observed that:

1) The explanation by the Accounting Officer on construction of the 2 No. 80 Beds Capacity Barracks at a sum of KSh.2,490,025 and KSh.2,571,935 was not satisfactory;
2) The public funds were not spent in a lawful and effective way as required under Article 229(6) of the Constitution of Kenya, and in compliance with Article 232(1)(b) of the Constitution on utilization of public resources; and
3) The matter therefore remained unresolved.

Committee Recommendations

3081) The Committee recommended that:

1) **The Accounting Officer must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide proper explanation on the amount of spent on the** construction Kitchen and Dining Hall **and failure to lawfully apply and in an effective manner expend public funds amounting to KSh.4,935,785 as required under Article 229(6) of the Constitution of Kenya 2010.**
3) If the Accounting Officer fails to provide proper explanation, the Accounting Officer (during the period under review) should be surcharged KSh.1,740,000 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.

3082) <u>The Committee observed that Paragraph 1254 had same issues as those covered under Paragraph 1253.</u>

1255. Specialized Materials and Services - Supply of Cooking Fat to National Youth Service (NYS)

3083) The statement of receipts and payments reflects a figure of KSh.5,850,909,548 under use of goods and services, which as per note 5 of financial statements reflect a balance is KSh.2,260,767,007 for specialized materials and services. Included in the figure is KSh.36,288,000 paid to a contractor for supply of eight thousand four hundred (8,400) 20Kg tins of cooking fat to National Youth Service at a unit price of KSh.4,320. examination of the payment voucher and the contract document revealed the following;

3084)

1255.1 The Payment Voucher shows that the supplier was paid KSh.36,288,000 for supply and delivery of eight thousand four hundred (8400) 17kgs tins at a unit price of KSh.4,320 thereby short delivery of 3kgs by 8400 tins (25,200Kgs) for a cost of KSh.5,443,200.

Submission by the Accounting officer

3085) The Accounting Officer admitted that there was a mistake during tendering where the solid cooking fat was requested in 20kg tins. However, solid cooking fat are packaged in 17kg tins as per the market survey done. The supplier offered to supply in 17kg tins as per market availability. Subsequently, the item was ordered and delivered at market packaging as per the documents in our custody. The Service contracted for 8400 tins of 17kg cooking fat at the unit price of Ksh.4,320 and subsequently issued an LPO for the same valued at KSh.36,288,000 and therefore no money was lost.

Committee Observations and Findings

3086) The Committee observed that:

1) There was mismatch of 17kg and 20kg tins proofs that no due diligence was undertaken by the State department during the procurement process.
2) The the explanation given by the Accounting Officer with regard to supply and delivery of eight thousand four hundred (8400) 17kgs of cooking fat was satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3087) The Committee recommended that:

The matter be resolved.

3088)

1255.2 Documents availed for audit showed that the delivery was made in the financial year 2016/2017. However, the supplier was not included in the list of pending bills disclosed in the financial statements for the period ended 30 June 2017. Consequently, it is not possible to establish the authenticity of the claim paid during the financial year 2017/2018 which was never declared in the previous period.

Submission by the Accounting officer

3089) The Service agrees that the delivery was made in financial year 2016/17. However, the claim had not been processed by the end of the financial year and therefore could not be captured as a pending bill (Only processed and unpaid claims were considered as pending bills).

3090) The anomaly has since been rectified and all commitments and deliveries are captured as pending bills if they are not paid by the close of financial year. Documentation is available to show that goods which were ordered were supplied and received.

Committee Observations and Findings

3091) The Committee observed that:

1) The explanation by the Accounting Officer was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3092) The Committee observed that:

The matter be resolved.

3093)

1255.3 The Ministry entered and signed a contract with the supplier, a limited liability company whereas the actual supplier was a sole proprietor as per certificates of registration from the Registrar of Companies and Youth Access to Government Procurement Opportunities (AGPO) and Business questionnaire form dated 11 November 2015, 20 January 2016 and 16 June 2017 respectively. No explanation was provided for the contradicting information.

Submission by the Accounting Officer

3094) The Accounting Officer admitted that there was a mismatch only on the cover page, the name of the firm was inadvertently captured wrongly as 'Monks Limited' on the cover page but the form of tender and the stamp which are the contracting documents captured the name of the Supplier as 'Monks Traders'.

Committee Observations and Findings

3095) The Committee observed that:

1) The explanation by the Accounting Officer was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3096) The Committee recommended that:

The matter be resolved.

3097)

1255.4 The Ministry signed a contract for supply of twenty (20) kg tins of cooking fat at a unit price of KSh.4320. However, the supply was made in quantities of seventeen (17) Kg tins at the same unit price resulting in a loss of KSh.1,814,400.

Submission by the Accounting officer

3098) The Accounting Officer admitted that there was a mistake during tendering where the solid cooking fat was requested in 20kg tins. However, the market does not have 20kg tins as per the market survey done. Subsequently the item was ordered and delivered at market packaging as per the documents in our custody. The Service contracted for 8400 tins of 17kg cooking fat at the unit price of Ksh.4,320 and subsequently issued an LPO for the same valued at KSh.36,288,000.

Committee Observations and Findings

3099) The Committee observed that:

1) The contract was for supply of 20kg tins of Cooking fat at a unit price of KSh.4320 but the supply was made in quantities of seventeen (17) Kg tins at the same unit price resulting in a loss of KSh.1,814,400; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3100) The Committee recommended that:

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

3101)

1255.5 The requisition from the Quarter Master dated 19 December 2016 shows six thousand nine hundred (6,900) tins of cooking fat were required while the approved quantity of the professional procurement opinion twenty-one thousand (21,000) tins resulting in an extra fourteen thousand one hundred (14,100) tins without requisition all valued at KSh.60,912,000. Consequently, the propriety of the expenditure of KSh.60,912,000 on supply and delivery of cooking fat could not be ascertained as at 30 June 2018.

Submission by the Accounting Officer

3102) The requisition was anchored on the minimum of 6900 tins and a maximum of 21000 tins as per the schedule of requirements which is part of the contract document. The professional opinion approved the maximum quantity hence there was no over-procurement.

3103) The Contract Agreement together with the Local Purchase Order specified that the cooking fat was to be supplied in tins of 17kg. This was after the realization that in the market cooking fat comes in a bucket/tin of 17kg and not 20kg. The intention of the Service was procuring cooking fat in tins of 17kg and the mix up is regretted and the service has taken due note of market situation and rectified.

Committee Observations and Findings

3104) The Committee observed that:

1) The explanation provided by the Accounting Officer was satisfactory.
2) The matter therefore marked as resolved.

Committee Recommendations

3105) The Committee recommended that:

1) **The matter be resolved.**
2) **The Accounting Officer must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when**

procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

1256. Supply and Delivery of Expired Chemicals at National Youth Service

3106) A scrutiny of stocks records, labels and subsequent verification of Insecticides in stock at National Youth Service (NYS) Central Stores "A" revealed that between June and August 2017 the State Department procured and received one thousand seven hundred and fifty (1750) litres of expired Actellic which was manufactured in September 2014 with a shelf life of two (2) years (Expiry period September 2016) valued at Kshs.13,846,250. No explanation has been provided for this anomaly leading to loss of Kshs.13,846,250 worth of public funds and contravening Article 232(1)(b) of the Constitution of Kenya 2010 on economical, effective and efficient utilization of public resources.

3107) Below are pictures of the actual product stored in the boxes and the pictures of the boxes in which the product was extracted from. These were provided to the Committee. Both the product dates and dates on the boxes show that they were expired as at the time of audit.

Submission by the Accounting Officer

3108) As per S3 card no.421702, the auditor took a picture of empty cartons of 1750 litres of Actellic which were held for investigations by the EACC but the cartons do not relate to the financial year 2017/2018.

Committee Observations and Findings

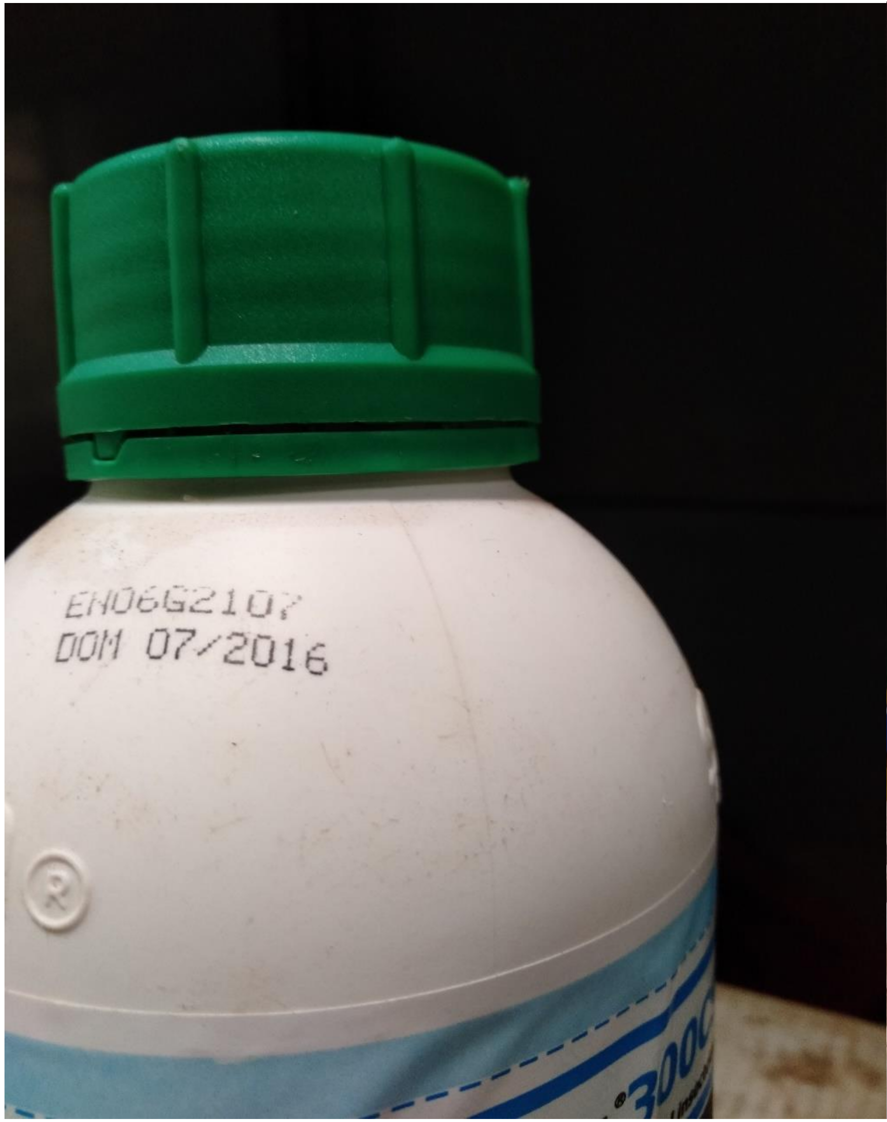
3109) The Committee observed that:

1) The Accounting Officer's submission was not in tandem with evidence from the Auditor General and the findings from the visit by the Committee to the NYS general stores.
2) Public funds amounting to Kshs.13,846,250 was not spent in a lawful and effective way as required under Article 229(6) of the Constitution of Kenya, and in compliance with Article 232(1)(b) of the Constitution on utilization of public resources; and
3) The matter therefore remains unresolved.

Committee Recommendations

3110) The Committee recommended that:

1) **The Accounting Officer during the financial year (2017-2018) should be held liable for the above breaches.**
2) **The Accounting Officer must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**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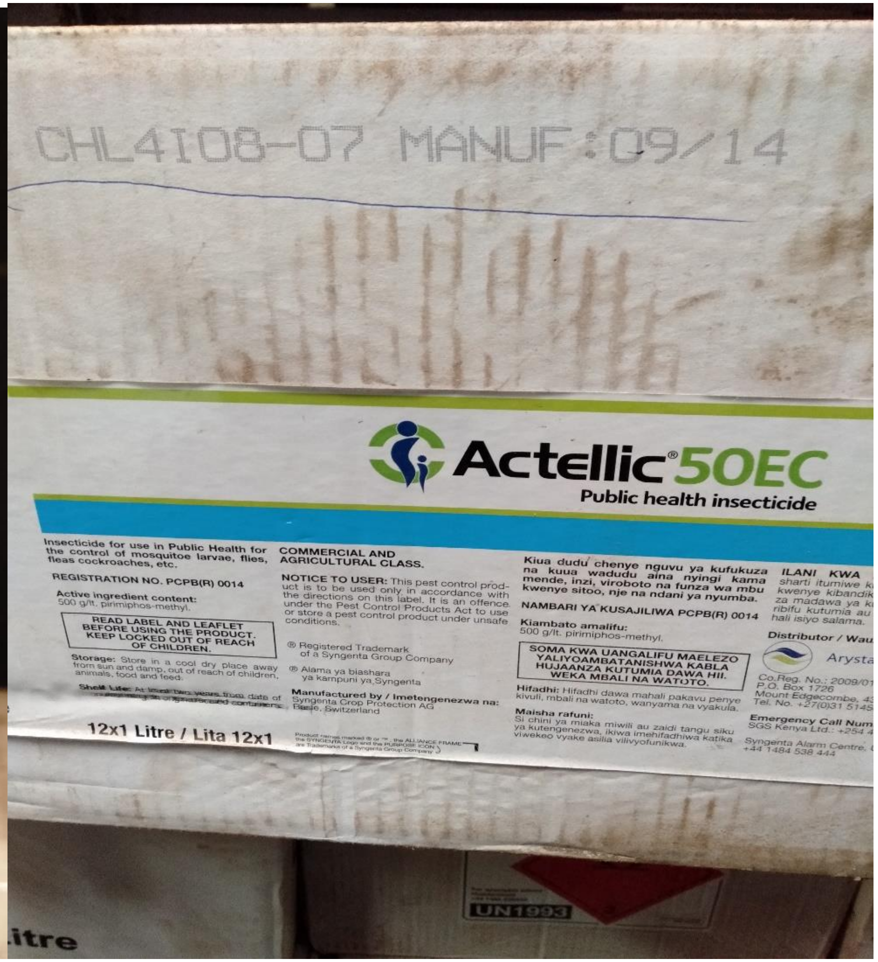
DOM 07/2016


Actellic® 300CS
Long lasting residual insecticide
syngenta.
Capsule Suspension (Vibonge katika Vioevu).
A public health insecticide for indoor residual use against mosquitoes.
(Ni kiua dudu aina ya mbu hunyunyizwa kwa ukuta ya ndani ya nyumba).
DOMESTIC CLASS (KUNDI LA NYUMBA)
Guarantee: / Dhamana: 300 g/l Pirimiphos-methyl.
READ THE LABEL BEFORE USING (SOMA KIBANDIKO KABLA KUTUMIA).
REGISTRATION NO. / NAMBARI YA KUSAJILIWA: PCPB(CR)1233
KEEP LOCKED OUT OF REACH OF CHILDREN. WEKA MBALI NA WATOTO.
Shelf Life: Two years from the date of manufacturer if stored in un opened original container in a dry cool place.
Maisha rafuni: Miaka miwili baada ya tarehe ya kutengenezwa iwapo dawa hii itahifadhiwa kwa chobo chake asili bila kufunguliwa na iwepakavu na pasipo na joto.
In case of emergency Call Toll Free No(Wakati wa Dharura pig nambari ya simu:0800 720 021/ 0800 730 030(24hr, masaa 24)
Distributor/Wauzaji:
Arysta LifeScience (K) Ltd.
Tulip House 5th Floor Mombasa Road Next to Sameer P.O. Box 30335 00100, GPO. Nairobi Kenya
Tel:+254 717 432 174
Manufactured by: / Watengenezaji: Syngenta Crop Protection AG Basle Switzerland
See bottle for date of manufacture and batch number
Net Content: Ujazo: 833 ml



Pictures of Actellic 300CS bottles which were packed in Actellic 50EC boxes

1257. Expired Stocks - White Spirit

3111) The Ministry procured three hundred and fifty-seven (357) five litre tins of white spirit from a supplier at a unit price of Kshs.1,820 totaling Kshs.649,740. The items were received at the National Youth Service Stores on 26 June 2017 and all were still in the stores as at January 2019. Inspection of the stores revealed that the white spirit was manufactured in the year 2015 and had expired in the year 2018. No reason has been provided for failure by the Management to utilize the procured items within the stipulated time leading to loss of Kshs.649,740 incurred on unutilized items.

Submission by the Accounting Officer

3112) The Accounting Officer submitted that it was true that some items bought for the project of Ngong market were still in store and some expired. This was because the project got stalled because of land issue. The materials were bought after the Service was assured of the existence of the land by the Ministry of Industrialization and Trade but conflict arose during the erection of the beacons. It can also be noted that the project was under the Youth Empowerment Programme which has since been discontinued.

Committee Observations and Findings

3113) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to the three hundred and fifty-seven (357) five litre tins of white spirit was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3114) The Committee recommended that:

The matter be resolved.

1258. Stock Movement between NYS Headquarters and Gilgil College

3115) Stores records maintained at Gilgil College showed stock inward entries relating to food and rations that were received from Headquarters and captured in the station’s stores records. However, the corresponding dispatch records at Head Office had not captured these movements in the stores records at the Headquarters. As a result, it was not possibly to confirm how such items were procured, received at NYS Headquarters and dispatched to the Gilgil station:

Stores Issue and Receipts Voucher (S11 and S12 Nos.)	Item Description	Quantity	Value (Kshs.)
011845,011849,0353207,0353231	Army biscuits	810,000 packets	103,680,000
8779076,8779078,8779074,8779069,8779072	Baked beans	84,216 tins	11,874,456
8779199,8779643,8779644 and other 3 receipts without documentation (1488 bags)	Powdered milk	2,488 bags (25kgs)	
8779352,8779362,8779359,	Corned beef	60,624 tins	22,734,000
8779378,8779377,8779387	Canned pineapples	60,624 tins	10,487,952
8779651	Cooking fat	300 tins (17Kgs)	1,296,000
Total			**150,072,408**

3116) Consequently, the accuracy and completeness of the stores records and in particular the expenditure on food and rations valued at Kshs.150,072,408 charged to specialized materials and services could not be confirmed.

Submission by the Accounting Officer

3117) The Accounting Officer submitted that it was true that she has provided stores issues voucher showing that the items were dispatched from the NYS head office.

Committee Observations and Findings

3118) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to the three hundred and fifty-seven (357) five litre tins of white spirit was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3119) The Committee recommended that:

The matter be resolved.

1259. Rentals of Produced Assets

3120) The statement of receipts and payments reflects a figure of KSh.5,850,009,548 under use of goods and services. Included in the figure is KSh.528,405,650 relating to rentals of produced assets. The account balance includes KSh.7,739,513 paid to a service provider for provision of helicopter services to the National Youth Services staff travelling to various destinations. A review of the quotations attached to these payments show that two of the three service providers were managed by the same person who submitted the quotations implying that the procurement process did not comply with Section 106(2)(b) of the Public Procurement and Assets Disposal Act 2015 which require that request for quotations shall be given to as many persons as necessary to ensure effective competition and shall be given to at least three persons, unless it is not possible.

3121) In addition, no contract signed between the service provider and the State Department has been provided for audit verification as required under Section 44(2)(f) of the Public Procurement and Assets Disposal Act, 2015.

3122) Further, the invoices billed and paid include an invoice for "Windsor" as part of the itinerary covered which was not in the approved itinerary that was requisitioned and approved by the Accounting Officer.

Submission by the Accounting Officer

3123) At the time of issuing the quotations the Service was not aware that the firms were managed by the same person. The State Department regret the omission. The State Department issued a Local Service Order (LSO) for the helicopter hire services. There was a Senior Officer coming from a field activity to an official function at 'Windsor'.

Committee Observations and Findings

3124) The Committee observed that:

1) The State Department did not comply with provisions of Section 106(2)(b) of the Public Procurement and Assets Disposal Act 2015 by not giving quotation to as many persons as necessary to ensure effective competition;
2) Public funds were not spent in a lawful and effective way as required under Article 229(6) of the Constitution of Kenya, and in compliance with Article 232(1)(b) of the Constitution on utilization of public resources;
3) The Accounting Officer was unable to provide the name of the Senior Officer who was supposedly coming from a field activity to an official function at 'Windsor'. This is in contravention of Article 125 of the Constitution and section 23 of the Parliamentary Powers and Privileges Act 2017;
4) The Accounting Officer failed to provide copy of contract signed between the service provider and the State Department for audit verification as required under Section 44 (2) (f) of the Public Procurement and Assets Disposal Act, 2015; and
5) The matter therefore remained unresolved.

Committee Recommendations

3125) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**
2) **The Accounting Officer must at all times ensure that she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

3) **The Accounting Officer must at all times ensure that she prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
5) **The Auditor General, the Accounting Officer during the financial year under review (2017/2018) should be surcharged for failure to prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012 and therefore committing offenses of financial misconduct pursuant to section 197 (1) (k) and (l).**

1260. Supply and Delivery of Water Melons

3126) Examination of documents maintained at Gilgil college relating to supply of goods revealed that an enterprise was contracted for supply of five thousand (5000) kilograms of water melons at a price of KSh.100 per kilo all totaling to KSh.500,000. The local purchase order was issued on 5 January 2016 approximately four (4) months before the enterprise was registered on 28 April 2016.

3127) As a result, it was not possible to determine how the non-existing firm was identified, contracted and paid KSh.500,000 and if the procurement was done as required by law.

Submission by the Accounting officer

3128) The Commandant Gilgil picked the supplier from the listed suppliers as per the prequalified list at the Office of the Deputy County Commissioner. The contracts for supply of fruits amongst others, are prequalified and listed by the Office of the Deputy County Commissioner, Gilgil. An LPO was issued on the strength that all the relevant documents had been checked at that level. It is noted that the supplier actually supplied the quantities as ordered.

3129) To forestall such in the future, the Service has started prequalifying its own suppliers and verifying those submitted by an independent entity.

Committee Observations and Findings

3130) The Committee observed that:

1) The explanation by the Accounting Officer on the Supply and Delivery of Water Melons at a total sum of Ksh.500,000 was satisfactory; and
2) The Committee marked the matter as resolved.

1261. Acquisition of Assets

3131) The statements of receipts and payments reflect a figure of KSh.2,847,106,725 under acquisition of assets. Included in this balance is KSh.1,052,626,086 for rehabilitation of civil works. Analysis of sampled payment vouchers charged to the vote for rehabilitation of civil works revealed a charge of recurrent expenditure in respect of specialized materials and supplies, supply of training materials, supply of spare parts amounting to KSh.255,390,101. No reallocation approvals were availed for audit review.

3132) Further, included in the balance of KSh.2,847,106,725 in respect of acquisition of assets is purchase of specialized plant and equipment totaling KSh.647,863,150. However, the amount includes KSh.647,863,150 recurrent expenditure in nature for specialized materials and services. Although this constitutes reallocation of funds from development vote to recurrent vote, no approvals in line with Section 43 of the Public Finance Management Act, 2012 were availed for audit verification.

3133) No explanation has been provided for the failure to adhere to the budget or seek approval for reallocation of funds as required under Section 43 of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

3134) The Accounting officer admitted that some items, 'recurrent in nature' were charged to the vote for rehabilitation of civil works e.g. specialized materials and supplies, supplying of training materials and supplying of spare parts. Even though these items are recurrent in nature, under the Youth Empowerment Program, they were budgeted under development and therefore there was no need to seek for re-allocation.

Committee Observations and Findings

3135) Ther Committee observed that:

1) The explanation by the Accounting Officer on the specialized materials and supplies, supply of training materials, supply of spare parts totaling KSh.647,863,150 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3136) The Committee observed that:

The matter be resolved.

1262. Non-compliance with the budget at Gilgil College

3137) Information availed for audit in respect of payments at Gilgil field station showed that during the year 2017/2018, the station received KSh.610,648,119 being development and recurrent expenditure of KSh.15,684,960 and KSh.594,963,159 respectively. However, included in the recurrent expenditure of KSh.594,963,159 is an amount of KSh.4,000,000 incurred on communication supplies and services which had no approved budget. No evidence has been provided for audit verification to show that the reallocation was requested and approved.

Submission by the Accounting Officer

3138) AIE No. A715715 for 1st quarter allocation 2017/2018 financial year amounting to Kshs.124,792,000 had an allocation of Kshs.4,000,000 for gas expenses; however, the code was erroneously indicated as 2210203 which is for Courier and postal services instead of 2210103 which is meant for the gas expenses. Therefore, there was no need for reallocation of funds as per attached copy of AIE.

Committee Observations and Findings

3139) The Committee observed that:

1) The explanation by the Accounting Officer on the non-compliance with the budget at Gilgil was satisfactory; and
2) The matter was therefore resolved.

Committee Recommendation

3140) The Committee recommended that:

The matter be resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1263. Hospitality Supplies and Services - Contracted Professional Services - Consultancy Services for Capacity Assessment and Rationalization of Public Service (CARPS) Programme

3141) The State Department entered into a contract worth KSh.130,095,828 on 14 July 2014 to undertake the capacity assessment and rationalization of public service. The contract was to run from 14 July 2014 to 31 October 2014. Although there is no evidence of contract extension, during the year, the consultant was paid KSh.15,024,688 arising from three (3) contract price variations totaling to KSh.26,788,808 that was granted on 16 December 2014, of KSh.7,033,660 on 16 February 2015 and KSh.15,024,688 on 24 February 2016. The total contract price variation was 20% which was above the 15% maximum price variation.

3142) The payment of KSh.15,024,688 was supported by a Ministerial Tender Committee minutes for meeting held on 8 June 2016 which again approved the contract price variation which was seventeen (17) months after the initial price variation on 16 February 2015.

3143) In the absence of the contract extension documents it is not possible to confirm the price variations have been done in line with the section 139(4)(d) that requires any price variations to be done within the period of the contract.

Submission by the Accounting Officer

3144) The Consultancy on the CARPS programme was envisaged to be undertaken within a period of three (3) months from July 2014 to October 2014. However, due to enormity and complexity of the exercise, the contract was extended 4 times as follows:

i. 1st extension from 1st Nov 2014 to 31st Jan 2015
ii. 2nd extension from 31st Jan 2015 to 15th Mar 2015
iii. 3rd extension from 16th Mar 2015 to 30th April 2015
iv. 4th extension from 1st May 2015 to 30th June 2016

3145) The extensions were undertaken in line with the provisions of the Contract which provided for extension based on mutually agreed terms by the two parties. The extensions approval were availed for perusal by the Committee.

3146) The CARPS program was intensive and required physical visits and in-depth Institutional review of all MDAs and County Governments which could not be achieved within 3 months as envisaged. The pricing of the Contract was activity based as agreed in the Minutes of the negotiations dated 25th and 26th June 2014. These formed an integral part of the Contract. However, in the course of implementation of the consultancy, additional activities that had not been factored in the Contract but found necessary for the success of the consultancy were noted. These activities included the following:

1. Capacity building for public officers on Biometric registration and system sustainability
2. Some public servants did not present themselves for the biometric data registration prompting a revisit of the MDAs to get the data.
3. Validation of Ministerial/Departmental and County CARPS Programme institutional reports by the respective Committees and stakeholders.
4. A repeat exercise for the County government of Machakos following an unsuccessful exercise for the County Government.

3147) The 20% price variation was therefore occasioned by the above additional activities that were not part of the initially negotiated and costed activities in the Contract.

3148) The CARPS programme consultancy has provided the Government at both levels, with useful recommendations for policy and strategy review/development; that have been the basis for the ongoing programmes for the transformation of the Public Service for efficient and effective service delivery for the citizens.

Committee Observations and Findings

3149) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
3) The matter therefore remained unresolved.

Committee Recommendations

3150) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1264. Specialized Materials and Services

1264.1 Non-compliance with Section 114 of the Public Procurement and Assets Disposal Act, 2015

3151) The statement of receipts and payments reflects a figure of KSh.5,850,909,548 under use of goods and services, included in the accounts balance is KSh.2,260,767,007 for specialized materials and services. The figure includes KSh.222,363,000 (sampled payment vouchers) for various supplies of goods as tabulated:

Product	**Quantity**	**Unit Price**	**Amount (KSh.)**
Corned beef	256,000	375	96,000,000
Corned beef	187,000	375	70,125,000
Cooking fat	8,400	4,320	36,288,000
Foam mattresses	5000	3,990	19,950,000
Total			**222,363,000**

3152) The goods were procured through mini competition under contractual framework. However, no framework contract was produced for audit verification. In addition, no evidence has been provided to show that the bidders invited to the mini competition were under framework contract. Consequently, it was not possible to confirm whether the method for bidders identification, selection, and contracting for the supply of goods valued KSh.222,363,000 was done in compliance with all the relevant laws and regulations.

3153) Further, the stores record S.13 No. 8591799 used to receive the 187,000 tins of corned beef to central store at National Youth Service Headquarters was not dated making it difficult to match it with the delivery note and inspection and acceptance certificate.

Submission by the Accounting Officer

3154) Based on the documents available, the firms were invited to participate in a competitive process for the supply and delivery of goods. Bidders were identified in January 2016 vide an advertisement in the local dailies. The bidders for supply of foodstuffs including corned beef were identified vide tender No. NYS/6/2016-2018 as captured in the said advertisement. All the bidders who were engaged for this procurement are included in the list of firms eligible for engagement resulting from the said tender as approved by the Accounting Officer.

3155) Further, the counter receipt voucher (S13) used to receive stores is usually raised on the same day the supplies are delivered and duly inspected for acceptance or otherwise. The omission to date the S13 is regretted, but it was presumably the same date the supplies were duly inspected and accepted for issuance to the various field units. The bin card has the date in which the entry was made. Bin card showing date of entry is attached for perusal.

Committee Observations and Findings

3156) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The explanation given by the Accounting Officer with regard to the omission of date on S13 was not satisfactory; and
4) The issue remained unresolved.

Committee Recommendations

3157) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

3) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1264.2 Non-compliance with Section 44(2) (h) of the Public Procurement and Assets Disposal Act, 2015

3158) The statement of receipts and payments reflects a figure of KSh.5,850,909,548 under use of goods and services, included in the accounts balance is KSh.2,260,767,007 for specialized materials and services. The figure for specialized materials and services include KSh.156,353,460 paid for supply of goods as tabulated below:

Product	**Quantity**	**Unit price KSh.**	**Amount (KSh.)**
Pineapple in syrup	405,000	173	70,065,000
Pineapple in syrup	289,000	173	50,000,460
Cooking fat	8,400	4,320	36,288,000
Total			156,353,460

3159) Examination of requisitions, tender evaluation committee minutes and inspection and acceptance certificates showed that the officer who made the requisition participated in tender opening, tender evaluation and award the entire process and chaired the inspection and acceptance committee. This was a non-compliance with Section 44(2) (h) of the Public Procurement and Assets Disposal Act, 2015.

Submission by the Accounting Officer

3160) The Accounting Officer submitted that she noted that the officer who participated was the Quarter Master which resulted in the apparent non-compliance with Section 44 (2)(h) of the Public Procurement and Assets Disposal Act, 2015.

3161) However, the tradition in disciplined forces is such that the Quartermaster must be involved especially in receipt of the supplies to confirm compliance with specifications. He is also the officer who monitors the consumption patterns and therefore must be involved in raising the requisitions but he is not the approving authority for requisitions. Section 44 of the PPDA has therefore been fully complied with. Kindly note that the Quartermaster is a member in these committees comprising other members and decision making in corporate. The duties of the quartermaster are spelt out as per the letter attached.

Committee Observations and Findings

3162) The Committee observed that:

1) The explanation by the Accounting Officer with regard to the State Department's non-compliance with Section 44(2) (h) of the Public Procurement and Assets Disposal Act, 2015 was satisfactory; and
2) The Committee therefore marked the matter as resolved.

Committee Recommendations

3163) The Committee recommended that:

The matter be resolved.

1265. Non-compliance with Section 135 (1) of the Public Procurement and Assets Disposal Act, 2015

3164) The statement of receipts and payments reflects a figure of KSh.5,850,909,548 under use of goods and services, included in the accounts balance is KSh.2,260,767,007 for specialized materials and services. Examination of sampled payment vouchers charged to the item code totaling to KSh.101,141,400 showed that the State Department did not comply with Section 135(1) of the Public Procurement and Assets Disposal Act, 2015 by entering into contract for supply and delivery of goods and services before expiry of the 14 days period after notification of award as tabulated below;

Items Supplied	Date Contract was Signed	No. of Days	No. of Days Due	Amount (KSh.)
NYS Logos for Shirts and Caps	28/02/17	13	1	15,435,000
White Socks	28/02/17	13	1	5,898,400
Webbing Equipment	28/02/17	13	1	10,010,000
Foam Mattresses	28/02/17	13	1	19,950,000
Sanitary towels	21/04/17	11	3	13,560,000
Cooking Fat	21/04/17	11	3	36,288,000
Total				**101,141,400**

3165) Consequently, it was not possible to confirm whether the expenditure of KSh.101,141,400 was lawful and that funds were utilized in an effective manner as required under Article 229(6) of the Constitution of Kenya 2010.

Submission by the Accounting Officer

3166) The Accounting Officer submitted that the contract for supply and delivery of goods and services was entered into and signed before the expiry of 14 days as is required by the law. This was caused by the urgent need for these items. This omission of signing the contracts before the 14 days is highly regretted and will be avoided in future.

Committee Observations and Findings

3167) The Committee observed that:

1) The explanation by the Accounting Officer with regard to the matter of the State Department's non-compliance with section 135(1) of the Public Procurement and Assets Disposal Act, 2015 was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3168) The Committee recommended that:

The matter be resolved.

1266. Specialized materials and services - Provision of Consultancy Services for Event Management, Publicity and Mobilization

3169) The State Department awarded a one (1) year contract to a service provider for provision of communication, research and audience analysis, public relations and event management for implementing the Communication/Media Strategy for the Ministry at a contract price of KSh.139,905,976.

3170) The terms and conditions of the contract provided that the Consultant shall not subcontract any portion of the contracted services without the client's prior written consent. However, information availed for audit showed that the service provider engaged several other sub-contractors without prior approval as stipulated in the contract who were paid a total KSh.5,211,440. No evidence has been provided to confirm that payments totaling to KSh.5,211,440 made to subcontractors were approved as per the contract.

3171) In addition, although Section 135 (3) of Public Procurement and Asset Disposal Act,2015 provides that the written contract shall be entered into within the period specified in the notification but not before fourteen (14) days have elapsed following the issuance of the letter of notification of award, the Accounting Officer signed and issued notification of award letter to the service provider on 20 July 2016 while the contract was signed 27 July 2016 being seven (7) days later which is contrary to the requirements of Section 135(3) of the Public Procurement and Assets Disposal Act 2015.

3172) No satisfactory explanation has been provided by management for noncompliance with Section 135(3) of the Public Procurement and Assets Disposal Act, 2015.

Submission by the Accounting Officer

3173) The Contractor did not adhere to the contract terms and went ahead to sub contract without the Client consent. This was an oversight on the Ministry for not taking action when the terms of contract were breached. The State Department regret this oversight and are adhering to terms and conditions of current and future contracts.

Committee Observations and Findings

3174) The Committee observed that:

1) The State Department was in agreement of non-compliance with 135(3) of the Public Procurement and Assets Disposal Act, 2015;
2) The State Department was in agreement of non-compliance with the contract agreement by allowing service provider engaged several other sub-contractors without prior approval as stipulated in the contract
3) The matter therefore remained unresolved.

Committee Recommendations

3175) The Committee recommended that:

The Service Provide, Sage Media, should be sanctioned pursuant to section 176 (2) (3) and (4) and section 177 for contravening the provisions of section 135(3) of the Public Procurement and Assets Disposal Act, 2015.

1267. Contracted Professional Services - Provision of Public Relations Services

3176) The State Department awarded a communication consultancy contract to a consultancy firm for an amount of KSh.47,270,000 effective 12 January 2015 for a period of twelve months with an auto written notice which is against Public Procurement and Assets Disposal Act, 2015 Section 139(2). Examination of the Payment Voucher No.0739 dated 26 September 2017 and attached supporting documentation shows that Information availed for audit indicated that the service provider was paid KSh.9,722,032 for second quarter invoice dated 6 May 2016 in respect of this service. However, examination of the documentation in support of the payment showed the following:

3177)

1267.1 Contrary clause 2.3 of Special Conditions to the Contract Amendments and supplements to clauses in the General Conditions to the Contract which stated the contract period was twelve (12) months starting 12 January 2015 and ending 12 January 2016 the service provider issued second quarter invoice dated 6 May 2016 approximately five (5) months after the scheduled expiry date of the contract period. No evidence was provided to show the contract period had been extended.

Submission by the Accounting Officer

3178) We confirm that before the expiry of the Contract, the CEO Huduma Kenya Secretariat formally requested the Accounting Officer to approve the renewal of the contract for a further one year. Vide Annex 1267 (1) and subsequently the Accounting Officer approved the renewal of the contract for a one year period.

3179) The State Department regreted that this evidence was not availed at the time of the audit. The same has been forwarded to the auditor for review.

Committee Observations and Findings

3180) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The Contract renewal was not done in line with the PP&AD Act 2015, where by a request is made by the service provider, evaluation committee does recommendations, professional opinion is provided by Head of Supply Chain and the final approval is granted by the Accounting officer; and
4) The matter therefore remained unresolved.

Committee Recommendations

3181) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

3182)

1267.2 Clause 6.2 (b) of special conditions to the contract further outlined the contract price shall be paid in four (4) schedules/tranches which emphasized on condition that the payments shall be made upon submission of acceptable reports. However, no evidence has been provided to show that the second quarter report (as an agreed deliverable) paid for was inspected, accepted and approved for payment in line with Section 48 of Public Procurement and Asset Disposal Act, 2015.

Submission by the Accounting Officer

3183) The State Department regret that at the time of audit that the evidence was not availed. The services were inspected, accepted and approved for payment in line with Section 48 of the Public Procurement and Asset Disposal Act, 2015.

Committee Observations and Findings

3184) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The matter therefore remained unresolved.

Committee Recommendations

3185) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that he avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

3186)

1267.3 Section 139 (2) of Public Procurement and Asset Disposal Act, 2015 provides that an Accounting officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for extension of contract that is accompanied by a certificate from the tenderer making a justification for such cost. However, no minutes or recommendation from the evaluation committee on the extension of the contract has been availed for audit verification.

Submission by the Accounting Officer

3187) The Contract was renewed by the Accounting Officer before the expiry of the Contract on 12th February 2016. Following the satisfactory performance of the contract and the need for the service, the CEO Huduma Kenya Secretariat formally requested the Accounting Officer to approve the renewal of the contract for a further one year and subsequently the Accounting Officer approved.

Committee Observations and Findings

3188) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) The Contract renewal was not done in line with the PP&AD Act 2015, where by a request is made by the service provider, evaluation committee does recommendations, professional opinion is provided by Head of Supply Chain and the final approval is granted by the Accounting officer; and
4) The issue remained unresolved.

Committee Recommendations

3189) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**

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

3) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

4) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1268. Direct Procurement of Goods and Services at Mwatate Field Station

3190) A total of KSh.18,604,950 was disbursed to Mwatate field station in form of recurrent AIE (Authority to Incur Expenditure). Out of this figure KSh.1,451,150 was paid in cash to the Station Commanding Officer for purchase of goods and services in cash contrary to Section 91 (1) of the Public Procurement and Assets Disposal Act, 2015 as follows;

			KShs
1.	Supplies and production	100,000	
2.	Fungicides, insecticides and spray		228,000
3.	Agricultural Material and small equipment		234,650
4.	Maintenance of motor vehicles	200,000	
5.	Other fuels		60,000
6.	Water and sewerage		40,000
7.	Purchase of certified crop seeds	90,000	
8.	Agricultural Materials		468,500
	Total		**1,451,150**

3191) Consequently, there is non-compliance with Article 227(1) of the Constitution of Kenya 2010 which requires procurement for goods and services that be competitive.

Submission by the Accounting Officer

3192) The Field Stations are issued with standing imprests to cater for day to day purchase of low value items but within a certain threshold. The assorted items amounting to KShs1,451,150 were procured on cash basis under this arrangement.

3193) These amounts were expended at diverse dates in the course of the financial year to support operations of the units' activities of urgent nature. Various receipts were merged to support the payment voucher. The expenditures were not incurred with the intention of avoiding competition. The exceeding of the limits is regrettable. Measures have been put in place to avoid recurrence of the mistake. NYS has since taken measures to enter into framework agreement for procurement of goods that would be required on a day to day basis to avoid the use of cash purchases.

Committee Observations and Findings

3194) The Committee observed that:

1) The explanation by the Accounting Officer on the direct procurement of goods and services at Mwatate Field Station was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3195) The Committee recommended that:

The matter be resolved.

1269. Direct Procurement of Goods and Services Using Standing Imprests at Gilgil College

3196) Payment voucher for imprests taken during the financial year 2017/2018 amounting to KSh.8,216,756 being standing imprest of KSh.400,000 issued on reimbursement basis for office use revealed that the station procures items through direct procurement over and above the minimum allowed threshold of KSh.30,000. No explanation has been provided for the non-compliance with Section 91(1) of the Public Procurement and assets Disposal Act, 2015 and Article 227(1) of the Constitution of Kenya 2010.

Submission by the Accounting Officer

3197) The purchases were made for facilitation of day to day operations mainly on an emergency basis. From our records the purchases rarely exceeded KShs30,000. These are expenses for activities that are of emergency and unforeseen in nature. The Procurement Act provides for emergency and foreseen expenses not exceeding Kshs. 30,000. These are normally through standing imprests or on cash basis. As observed by the auditors instances arose where the field manager exceeded this amount. This arose when there were very urgent activities or emergencies.

3198) Gilgil accounts for highest number of recruits and in that particular Financial Year 2017/18 (January –June/July December 2018) the station undertook double recruitment of recruits. Given the nature of activities and emergencies occurring, it was unavoidable not to exceed the procurement threshold at the time. NYS has since taken measures to enter into framework agreement for procurement of goods that would be required on a day to day basis to avoid the use of cash purchases.

Committee Observations and Findings

3199) The Committee observed that:

1) The explanation by the Accounting Officer on the direct procurement of goods and services at Mwatate Field Station was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3200) The Committee recommended that:

The matter be resolved.

1270. Procurement of Catering and Mobile Toilets Services at Gilgil College

3201) The Gilgil National Youth Service College paid KSh.2,330,000 to a service provider for provision of catering and mobile toilets for a one day cabinet secretary's meeting with Sacco members workshop. However, no documentation was availed for audit review to show how the service provider was identified and awarded the contract for the services. As a result, it was not possible to confirm whether the process was competitive and if the College received value for money on the expenditure of KSh.2,330,000.

3202) In addition, the expenditure was charged to account code 2211015 – specialized materials and services implying that the expenditure was not budgeted for under the correct account code being 2210800 - hospitality, supplies and services. No explanation or approval for reallocation has been provided to justify the reallocation of funds.

3203) Further, the letter of invitation listed the attendees from various stations whose attendance registers have not been provided in support of the expenditure of KSh.2,330,000. As a result, it was not possible to confirm whether the expenditure was lawful and if public funds were spent in an effective manner.

Submission by the Accounting Officer

3204) The Accounting Officer submitted as follows:

(i) The procurement need was urgent and there were no prequalified firms.

(ii) The Cabinet secretary in her capacity as the Authorized Officer in matters relating to human resources called for this meeting to resolve a matter which was of an urgent nature. This is a matter the Service had not planned for.

(iii) It is correct that the account charged for the expenditure was not the right one. The Station did not have funds in the right account by the time of procuring the service. Reallocation could not be sought because of the time factor. The authority to reallocate should have been obtained as per the PFM Regulations. This failure is attributable to the time factor and is regretted. The NYS management has now put in place measures to ensure the PFM Regulations are adhered to.

(iv) The Commandant, Gilgil did not have funds and sought funds amounting to KShs.2,330,000 from NYS Headquarters vide his letter Ref. GGL/FIN/2/2 VOL.X (230) dated 7th August, 2017 which was approved by the Director General.

Committee Observations and Findings

3205) The Committee observed that:

1) The State Department is in agreement of non-compliance with requirement of PFM regulations by not seeking authority to reallocate fund from Cabinet Secretary National Treasury;
2) The State Department was in agreement of non-compliance with requirement of PFM regulations by not procuring through a competitive process; and
3) The matter therefore remained unresolved.

Committee Recommendations

3206) The Committee recommended that:

The Accounting Officer at the material time should be sanctioned pursuant to section 176 (2) (3) and (4) and section 177 for contravening the provisions of section 135(3) of the Public Procurement and Assets Disposal Act, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1271. Poor Maintenance of Stores Records

3207) A physical verification of stores carried out in the stores in January 2019 revealed that the State Department procured and stored four (4) types of Chemicals at National Youth Service (NYS) stores whose details in regard to date of delivery, quantity delivered, unit price, unit of issue, value among others could not be verified as there were no records maintained. The items are as listed below;

S/No.	Type of Chemical	Manufacturer	Expiry Date	Quantity
1.	Alpha Insecticide	Osho	12/2017	308 Litres
2.	Karate 2.5 WG Insecticide	Syngenta	12/2016	18 Kilogrammes
3.	Acaricide Ex-Kupe	Osho-Sulphur Mills, India	06/2016	960 Millilitres
4.	Henkel's pool Chlorine/ Pool latrine	Henkel	06/2016	1220 Kilogrammes

3208) Further, scrutiny of the chemicals revealed that they had expired having exhausted their useful life of two (2) years as shown in the table above. No explanation has been given for failure to utilize the resources before expiry or dispose them off.

Submission by the Accounting officer

3209) The Accounting officer admitted that there was failure to utilize materials before expiry. There were no records found in the stores that the items were procured by NYS or whether the records were taken by the various investigating agencies. These were items were indicated as ‘returned to stores’ from the Youth Empowerment Program after it ceased its operations.

3210) The numerous court cases during the period led to officers being out of office and no proper handing over done. This led to the mistake not being detected early enough and the actual date of purchase and expiry could not be ascertained. The Service, has since put in place internal controls to ensure this does not happen again.

Committee Observations and Findings

3211) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) The matter therefore remained unresolved.

Committee Recommendations

3212) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**
2) **The Accounting Officer must at all times ensure that she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1272. Store Records

1272.1 Fire Extinguishers

3213) Inspection and verification of stores records carried out in the Month of January 2019 showed that the State Department procured twenty-six (26) foam fire extinguishers from three (3) different suppliers in the month of June 2017 as at a cost of KSh.895,200 but of which ten (10) of them were issued to Mechanical and Transport Board (MTB) leaving a balance of sixteen (16) in the stores.

3214) However, the following anomalies were observed;

(i) The actual number of the extinguishers in stores physically was twelve (12) units against the respective stock card which had sixteen (16) resulting to unexplained variance of four (4).

(ii) The fire extinguishers were indicated to have been manufactured in 2008. It is however not clear why the Ministry opted to procure fire extinguishers which had lasted for nine (9) years at the point of purchase yet the indicated useful life of the items was estimated to be seven (7) years from the date of manufacture.

(iii) Some of the fire extinguishers in the stores had disintegrating nozzles resulting from rust an indication of poor maintenance and therefore cannot be used.

(iv) The labels attached to the Foam extinguishers clearly indicated that these extinguishers required to be serviced at least once in a year using only products and spare parts from the Manufacturer. However, there was no evidence of maintenance attached to the products to show there was compliance with the manufacturer's maintenance instruction.

(v) Examination of Stock ledger card and Stock Control Card indicated that ten (10) fire extinguishers were issued to Mechanical and Transport Board (MTB) on 29 November 2016, Seven (7) months before they were procured and received in stores.

Submission by the Accounting Officer

3215) NYS operates various stores within its grounds.

(i) During the time of physical verification of the said extinguishers, only one store which had twelve (12) fire extinguishers was visited. The other four (4) had been stored in a different store which was congested with so many other items for the Youth Empowerment Programmes that had been stored in an ill assorted manner/ haphazardly. (These 4 were only discovered after rearrangement of the store). However, all the extinguishers are available and this can be verified.

(ii) Respective labels on the foam fire extinguishers show the manufacturing date of the cylinder as 2008. This does not refer to the expiry date of the commodity/contents. (This is the date that the container was manufactured). The fire extinguishers are annually serviced by replacing the contents.

(iii) Some of the fire extinguishers had disintegrating nozzles which is common during delivery. NYS has expertise in that field who maintained and serviced the extinguishers to ensure they were in good working condition before they were issued out.

(iv) The items are serviced before issuance to any unit and NYS has the capacity and skill to carry out this kind of maintenance.

(v) There were other fire extinguishers in store then, and which were issued to MTB. The fire extinguishers were issued out as per the Stores Ledger and Stock Control Card S3 Form No. 421690**.**

Committee Observations and Findings

3216) Then Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
3) The matter therefore remained unresolved.

Committee Recommendations

3217) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1272.2 Calcium Hypochlorite 65% Chlorine

3218) Inspection of Central Stores at National Youth Service (NYS) revealed that the State Department procured and received seven thousand (7000) Kilogrammes of Chlorine at a unit price of KSh.975 with a total cost of KSh.6,825,000 on 7 June 2017. The respective Stores Ledger card indicated that between 8 June 2017 and 4 November 2017 only one thousand six hundred (1600) Kilogrammes had been issued leaving a balance of five thousand four hundred (5400) Kilogrammes in the store which had not been issued since November 2017. The labels attached to the holding containers indicated that the Chlorine had shelf life of two (2) years and therefore expired on 25 April 2019.

Submission by the Accounting officer

3219) At the time of inspection NYS had issued one thousand six hundred (1600) Kilogrammes of chlorine. During the said period that is close of financial year 2016/2017, NYS colleges at Gilgil and Naivasha had double recruit intake. The large number of recruits posed significant health challenges thus the anticipation of water borne diseases. The water for these stations is provided by water vendors or sourced directly from a river. To mitigate this risk, it was prudent to procure large numbers of chlorine to prevent the perceived risk. The intention was for NYS to distribute the chlorine across all the 22 NYS units and this was done before the expiry dates. The Stores Ledger and Stock Control Card S3 Form No.408620 attached as indicates that all the 7,000 kgs of Chlorine had been issued by January 2019 as shown in the Card.

Committee Observations and Findings

3220) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to Calcium Hypochlorite 65% Chlorine was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3221) The Committee recommended that:

The **matter be resolved.**

NATIONAL YOUTH SERVICE MECHANICAL AND TRANSPORT FUND (MTF)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

1273. Late submission of financial statements

3222) The financial statements ought to have been submitted not later than three (3) months after end of the financial year (as at 30 September) to the Auditor – General for audit but were submitted on 26 October 2018 contrary to Section 81(4)(a) of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

3223) The Accounting Officer admitted that the financial statements for year ending 30th June 2018 were submitted late due to the arrest of the Accountant in charge (who is still having pending cases in court). His arrest meant that this process was interrupted and NYS could not meet the deadline as stipulated in the PFM Regulations. After the interdiction of previous officers, this caused a disruption in the preparation of the financial statements, and due to complexity of the financial statements, these could not be submitted on time. This was an overseen situation, which is being corrected by resourcing the unit with adequate Human Resources. In subsequent years NYS has always met its submission deadline.

Committee Observations and Findings

3224) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

4) However, the explanation given by the Accounting Officer with regard to late submission of financial statements was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1274. Accuracy and Completeness of Financial Statements

1274.1 Unsupported Financial Statements Adjustments

3225) The financial statements submitted on 26 October 2018 were subsequently revised and a new set issued and submitted together with the responses to draft audit report received on 26 March 2019. However, various adjustments processed between the two sets of financial statements were not made available for audit review as tabulated below:

Account description	Balances as per 26 October 2018 Financial Statements (KSh.)	Balances as per 8 April 2019 Financial Statements (KSh.	Difference (KSh.)
Hire of equipment	51,106,902	55,589,912	4,483,010
Personnel allowances	0	13,161,230	(13,161,230)
Maintenance expenses	98,150,456	0	98,150,456
Repairs of machines and vehicles	0	637,377	(637,377)
Office equipment	0	229,223	(229,223)
Administration	0	74,350	(74,350)

Receivables from NYS	1,361,855,934	1,334,105,603	27,750,331
Receivables from external operations	187,126,801	191,906,306	(4,779,505)
Plant and machinery	3,476,830,795	3,460,298,753	16,532,042
Clients deposits B/F	96,646	40,996	55,650
Embu County	3,329,750	8,896,520	(5,566,770)
Accumulated surplus/Deficit	(898,982,396)	(797,289,882)	(101,692,514)

3226) Under the circumstance, the accuracy and completeness of the financial statements as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3227) The Accounting officer admitted that the analysis was not provided for in the financial statement. This was an omission and is highly regretted. However, the adjusted financial statements have since been forwarded to the Office of the Auditor General for verification.

Committee Observations and Findings

3228) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Unsupported Financial Statements Adjustments was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3229) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1274.2 Unexplained and Unreconciled Errors and or Variances in the Statement of Financial Position

3230) The following errors were noted on the statement of financial position; -

(i) The total current assets in the statement of financial position casts to KSh.2,176,796,855 while the figure reflected in the statement of financial position is KSh.2,306,628,736 resulting to an unexplained variance of KSh.129,831,881.

(ii) The total assets figure on the statement of financial position casts to KSh.7,542,131,249 while the figure as per the statement of financial position is KSh.7,671,963,130 resulting to unexplained variance of KSh.129,831,881.

(iii) The total assets casted figure in the statement of financial position of KSh.7,542,131,249 does not agree with total liabilities of KSh.7,671,963,130 resulting in unexplained variance of KSh.129,831,881.

(iv) The comparative figure on the statement of financial position does not balance as the net liabilities cast to KSh.7,812,406,554 while the total assets cast to KSh.7,806,515,544 resulting in unexplained variance of KSh.5,891,000.

(v) The statement of cash flows reflect a balance of KSh.348,440,699 in relation to net cash flows from operating activities which differs with the casted balance of KSh.325,949,890 resulting in unreconciled variance of KSh.22,490,809.

(vi) A comparative figure of KSh.1,600,372 described increase/decrease in difference in the previous year has been omitted in the statement and hence the opening balance figure does not agree with the audited balance as at 30th June 2017.

(vii) The total casted figure for debit side of the trial balance of Ksh.8,863,649,035 does not agree with the reported figure of Ksh.8,807,428,968 resulting to unexplained variance of Ksh.139,351,417.

(viii) Cash and bank balance of KSh.214,012,630 as per note 1 of the financial statements does not agree with the casted figure of KSh.211,056,630 resulting to unexplained variance of KSh.2,956,000.

(ix) As per note 3 of the financial statements the comparative non-current assets balance of KSh.4,779,547,213 does not agree with the casted balance of KSh.5,779,547,212 resulting to unexplained variance of KSh.1,000,000,000.

(x) The fund balances for the year under review as per note 5 of the financial statements of KSh.8,351,764,013 and KSh.8,409,522,779 brought forward from 2016/2017 financial year do not agree with the casted balances of KSh.8,434,951,013 and KSh.1,137,522,779 respectively resulting to unexplained variance of KSh.83,187,000 and KSh.7,272,000,000.

(xi) As per note 7 of the financial statements, sundry creditors balance of KSh.8,579,223 do not agree with the casted balance of KSh.18,579,223 resulting to unexplained variance of KSh.10,000,000.

(xii) As per note 9 of the financial statements, the comparative client's deposits of nil balance does not agree with the casted balance of KSh.4,499,460 resulting to unexplained variance of KSh.4,999,460.

(xiii) As per note 10 of the financial statements the comparative client's deposits (Kerra Marakwet) balance of KSh.16,785,260 do not agree with the casted balance of KSh.16,807,260 resulting to unexplained variance of KSh.22,000.

3231) As a result, the completeness and accuracy of the statement of financial position remains in doubt. In view of the foregoing, it has not been possible to ascertain the accuracy and completeness of the financial statements as at 30 June 2018.

Submission by the Accounting officer

3232) The Accounting Officer admitted that the above stated errors were noted in the financial statements. This was attributed to the loss of institutional memory due to high employee turnover. The errors have since been rectified in the revised financial statements and submitted to the Office of the Auditor General for verification.

Committee Observations and Findings

3233) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Unexplained and Unreconciled Errors and or Variances in the Statement of Financial Position was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3234) The Committee recommended that:

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

Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

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

3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1275. Cash and Cash Equivalents

3235) The cash and cash equivalents balance of KSh.214,012,630 as at 30 June 2018 includes long outstanding reconciling items dating back to the year 2016 amounting to KSh.2,202,585 in respect one of the bank accounts. No explanation has been provided for failure to clear the long outstanding items from the books. As a result, the accuracy and completeness of cash and cash equivalents balance of KSh.214,012,630 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3236) This relates to receipts in bank statements and not in cash book. These amounts were banked directly by customers for various services and there was a time lag between when customers payed and when they came to the office for service. To correct the situation, the MTF management has since commenced the process of identifying these clients as well as the process of issuing official receipts for the purpose of bank reconciliation. The official receipt amount will be posted in the cashbook and the corresponding amount will be treated as sundry creditors in the current financial year (30th June 2020) Attached is a copy of cash book.

Committee Observations and Findings

3237) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Cash and Cash Equivalents was satisfactory; and
5) The Committee marked the matter as resolved.

1276. Non-Current Assets

3238) The statement of financial position as at 30 June 2018 reflects total non-current assets balance of KSh.5,365,334,394 which include an amount of KSh.3,460,298,753 relating to plant and heavy machinery. However, the Fund`s management has not valued the plant and heavy machinery for financial reporting purpose since inception. The total non-current assets balance of KSh.5,365,334,394 as at 30 June 2018 is therefore not, fairly stated under the circumstances.

3239) In addition, it was indicated in the report for 2015/2016 that, the non-current assets movement schedule under Note 3 and the statement of financial position reflected a net book value of KSh.6,263,076,867 while the computed figure using appropriate rates showed a balance of KSh.6,366,028,632. The resulting variance of KSh.102,951,765 has not been analyzed or explained to date.

3240) Further, and as previously reported in 2015/2016, the accumulated depreciation brought forward as at 1 July 2016 of KSh.2,178,510,682 included unsupported adjustments of KSh.3,662,814 relating to plant and heavy machinery and unaccounted for depreciation of KSh.94,168,883. No documentation has been provided in support of these adjustments to date.

3241) In view of the foregoing, the accuracy of non-current assets brought forward balance of KSh.6,263,076,867 as at 1 July 2016, of KSh.5,779,547,213 as at 30 June 2017 and the closing balance KSh.5,365,334,394 as at 30 June 2018 cannot be confirmed.

Submission by the Accounting officers

3242) The observation by the auditors' is correct. The Fund management has not valued the plant and heavy machinery for financial reporting purpose since inception. The total non-current assets balance of Kshs.5,365,334,394 as at 30th June 2018 stated at book value is therefore, not fairly stated under the circumstances.

3243) To ensure the accuracy of non-current assets, Mechanical Transport Fund (MTF) has since engaged Public Works to undertake valuation of vehicles, plant, machines and equipment. Any variance will be treated and adjusted accordingly as guided by the PFM Act on prior years' adjustment. The process is ongoing and the financial statement will be adjusted accordingly once the full report is availed to NYS.

Committee Observations and Findings

3244) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;

2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

3) However, the explanation given by the Accounting Officer with regard to the Non-Current Assets was satisfactory; and
4) The Committee marked the matter as resolved.

Committee Recommendations

3245) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1277. Non-Current Liabilities Sundry Creditors Reclassification

3246) The statement of financial position as at 30 June 2018 reflects under non-current liabilities sundry creditors balance of KSh.8,579,223. However, the balance was previously classified as a current liability. Further, no documentation has been provided to justify its reclassification to long term liability. In addition, the balance has been outstanding for over four years and there is no clear justification as to why the amounts have not been settled.

Submission by the Accounting Officer

3247) The Accounting officer admitted that the classification of the sundry creditors as long term liabilities was wrongly presented in the statement of financial position. According to International Public Sector Accounting Standard (IPSAS) the presentation of sundry creditors is current liabilities. The anomaly has since been rectified in the revised financial statement. The management has taken the necessary steps to clear these balances.

Committee Observations and Findings

3248) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;

3) However, the explanation given by the Accounting Officer with regard to the Non-Current Liabilities Sundry Creditors Reclassification was satisfactory; and
4) The Committee marked the matter as resolved.

Committee Recommendations

3249) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1278. Costs of Operations

3250) The statement of financial performance reflects revenue amounting to KSh.351,337,186 (2016/2017- KSh.235,386,086) and total operating expenses of KSh.504,227,904 (2016/2017 - KSh.483,547,363) for the year ended 30 June 2018. However, the management of the Fund has only included depreciation and amortization expenses, bank charges and maintenance expense in the reported total operating expenses of KSh.504,227,904 (2016/2017 - KSh.483,547,363), and excluded all other costs and expenses in relation to the operations of the Fund. The excluded costs and expenses are undetermined value of personnel emoluments, spares and other repairs of KSh.126,163,421 (2016/2017 - KSh.1,156,942,596) and fuel and lubricants- KSh.892,123,498 (2016/2017 KSh.776,524,309) all totaling to KSh.1,018,286,919 (2016/2017- KSh.1,933,466,905). These costs directly relate to the operation of the Fund and should have been matched to the revenue in order to arrive at the correct amount of loss for the period.

3251) Consequently, the reported loss for the period of KSh.152,890,718 (2016/2017 - KSh.248,161,278) and the cumulative deficit of KSh.797,289,882 as at 30 June 2018 are not fairly stated.

Submission by the Accounting Officer

3252) The Accounting Officer admitted that these costs were omitted despite being relevant to the Fund. This omission arose due to the fact that all of these payments were made at the

NYS headquarters. These costs have been identified and proper adjustments have been made. The adjusted financial statement has been forwarded for audit verification.

Committee Observations and Findings

3253) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
3) However, the explanation given by the Accounting Officer with regard to Costs of Operations was satisfactory; and
4) The Committee marked the matter as resolved.

Committee Recommendations

3254) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1279. Non – Current Liabilities Sundry Creditors

3255) The statement of financial position reflects non-current sundry creditors balance of KSh.8,579,223 as at 30 June 2018. However, the balance has been long outstanding for over five years and there is no clear justification as to why the amounts have not been settled. In consequence, the long outstanding sundry creditors may attract penalties and or interest charges and risk of court suits.

Submission by the Accounting Officer

3256) As earlier stated in response (1275), the amount represents clients who deposited cash for services to be rendered. The Fund still owes them the service. However, the Fund management is currently engaging them; with the aim of offering the services paid for.

Committee Observations and Findings

3257) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to Current Liabilities Sundry Creditors was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3258) The Committee remmended that:

The matter be resolved.

1280. Long Outstanding Unsupported Domestic and Commercial Debts

1280.1 Domestic Debts

3259) As disclosed under Note 4(a) to the financial statements, gross domestic debts of KSh.1,334,105,603 (KSh.429,523,206 for the year 2016/2017) as at 30 June 2018 includes balance brought forward of KSh.299,503,490 in 2016/2017. The balance brought forward include unsupported Director General National Youth Service debt of KSh.18,380,963 in respect of financial year 2013/2014 and an amount of KSh.124,600,000 borrowed from the Fund's Account at a local bank by the Ministry of Devolution and Planning in the same financial year. Information available indicates that there was no documented policy or authority given to borrow from the Fund. During the year 2016/2017, an amount of KSh.58,839,952 was repaid leaving a balance of KSh.429,523,206 in 2016/2017. No proper justification has been provided for non-settlement of the balance of KSh.635,899,313 (2016/2017 - KSh.429,523,206) relating to Director General National Youth Service all totaling to KSh.1,065,422,519 as at 30 June 2018.

Submission by the Accounting Officer

3260) The Accounting Officer admitted that the auditors' observation on the domestic borrowings of Kshs.1,334,405,603 (Ksh.429,523,206 for the year 2016/2017) as at 30th June 2018, includes balance brought forward of Kshs.299,503,490 which included unsupported Director General National Youth Service debt of Kshs.18,380,963.34 in respect to financial year 2013/2014 and an amount of Kshs.124,600,000 borrowed from the funds account at Kenya Commercial Bank Moi Avenue by the Ministry of devolution and planning in the same financial year.

3261) The current status is that these debts have been cleared as follows: - 1st payment on 9th & 12th July 2019 Kshs.8,974,120, on 10th July 2019 Kshs.99,304,504 and on 27th April 2020 Ksh.635,000,000. Bank statements attached in support of these receipts. However, the MTF management has included this as part of their account balances which is held at a Special Account at Central Bank of Kenya account number 1000199547.

Committee Observations and Findings

3262) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to the Domestic Debts was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3263) The Committee recommended that:

The matter be resolved.

1280.2 Commercial Debts

3264) Disclosed under Note 4(b) to the financial statements are commercial debts totaling KSh.191,906,306 made up of Tana Road Project debt of KSh.173,326,190 and other debts of KSh.13,800,611 all being more than four years old. No provision for impairment has, been made against the long outstanding debts even though the recovery is clearly uncertain. Under the circumstances, the commercial debts balance of KSh.191,906,306 as reported in the financial statements is not fairly stated. Under the circumstances, the accuracy, completeness and recoverability of the domestic and commercial debts cannot be ascertained.

Submission by the Accounting Officer

3265) The statement is correct as per the observation of the auditor and the explanations are as follows:

a) **Tana road project debt of Kshs.424,987,103 (Commercial debts)**

The recovery of the said debts is as follows:

- 1st payment recovered on 7th July 2017 of Kshs.251,660,913 Bank statement attached to support the payment

- 2nd payment recovered on 10th July 2019 Ksh.166,375,665 bank statement attached to support the payment.

- Outstanding balance as at June 2020 Kshs.6,950,525.

b) **Other debts of Kshs.13,800,611**

Attached is a letter addressed to the Attorney General on the outstanding debts to advice on the necessary action.

No feedback has been received as at now, the MTF management is considering writing a reminder on the outstanding debts to the Attorney General.

Committee Observations and Findings

3266) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to the Commercial Debts was satisfactory although the State Department has not put enough effort to recover the balances; and
2) The matter remained unresolved.

Committee Recommendations

3267) The Committee recommended that:

1) **Within six months upon adoption of this report by the House, the Accounting Officer should ensure full recovery of the balances.**
2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

1281. Hire of Equipment Income

3268) The financial statements for Mechanical and Transport Fund are prepared in accordance with International Public Sector Accounting Standards (IPSAS) accrual basis. The statement of financial performance reflects an income of KSh.351,337,186. Included in this amount is KSh.55,589,912 as income from hire of equipment and heavy machines. However, information presented for audit indicated that invoices amounting to KSh.18,491,360 were for services delivered in the financial year 2016/2017 and the invoices raised in 2017/2018 financial year. This contradicts the matching concept under accrual basis of accounting and no explanation has been provided for the omission.

3269) In the circumstances, the accuracy of hire of equipment revenue totaling KSh.55,589,912 for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

3270) The auditors' observation was correct. This was an omission and the same has been adjusted in the revised financial statement.

Committee Observations and Findings

3271) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Hire of Equipment Income was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3272) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1282. Hire of Small Vehicles/Lorries

3273) The statement of financial performance reflects an income of KSh.351,337,186. Included in this is KSh.265,727,084 as income from hire of small vehicles/ lorries. The following anomalies were observed in relation to this revenue;

(i) The amounts comprise of domestic hire and hire of small equipment. The schedule provided in support of domestic hire indicated that the income is receivable from all the NYS Units which used Mechanical Transport Fund machinery and motor vehicles. However, no contract or service agreements were provided in support of the billed amounts or detailed basis of the billing.

(ii) The Mechanical and Transport Fund has been invoicing itself and as at 30 June 2018 the total outstanding debt was KSh.146,339,884. The nature of services offered and billed have not been supported neither is it clear who is supposed to pay for the service rendered if any, and it has not been explained why the self-consumed services have not been expensed rather than recognizing them as debt.

(iii) The total income on domestic hire of small vehicles/lorries amounting to KSh.265,727,084 which is the total figure given on hire of small vehicles/lorries excluded an amount of KSh.588,360.

3274) Consequently, the accuracy and validity of revenue on hire of small vehicles/lorries balance of KSh.265,727,084 for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

3275) The Accounting Officer submitted that:

(i) The department agrees with the auditors' observations that no service agreements or contracts were prepared for the internal customers. However, the Fund management is in the process of developing internal Service agreement.

(ii) Transport is provided for NYS recruits /servicemen and women country wide on behalf of the DG NYS. The same applies to the transportation of servicemen and women from NYS colleges of Gilgil and Naivasha to other NYS units after completion of training.

In addition, transportation of staff, service men and women to attend official duty, public celebrations or occasions are done by MTF on behalf of DG NYS. Trucks are used to transport luggage for service men or women and distribution of centrally monthly issue to various NYS units. (e.g in the distribution of items bought at the NYS Headquarters and which need to be distributed to other units such as uniforms)

(iii) it is correct that the sales were under casted with Ksh.588,360 which has since been rectified in the revised statement.

Committee Observations and Findings

3276) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) However, the explanation given by the Accounting Officer with regard to the Hire of Small Vehicles/Lorries was satisfactory; and
5) The Committee marked the matter as resolved.

Committee Recommendations

3277) The Committee recommended that:

1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1283. Direct Procurement of Spares

3278) During the year under review, the fund procured spare parts of KSh.355,279 through direct procurement contrary to the requirements of Section 91 of the Public Procurement and Assets Disposal Act, 2015. No explanation has been provided for the noncompliance.

Submission by the Accounting Officer

3279) The Accounting Officer admitted that the fund procured spare parts for Kshs.355,279 through direct procurement contrary to the requirements of Section 91 of the Public Procurement and Assets Disposal Act, 2015. This was an emergency due to the fact that the bus was on hire and broke down in Mombasa with clients. The required spares parts were out of stock hence the management procured from a prequalified supplier.

Committee Observations and Findings

3280) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to the Direct Procurement of Spares was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3281) The Committee recommended that:

The matter be resolved.

1284. Unauthorized Lending

3282) The NYS – Mechanical Transport Fund was established under Legal Notice No. 15 of 30th January 2011. The purpose of the Fund is to ensure sufficient funds needed for maintenance, repair and service of the Motor vehicles, plant and equipment is achieved. However, an amount of KSh.1,114,827,220 was borrowed by the State Department for Public Service and Youth without appropriate authority. The State Department is yet to refund KSh.635,899,313 to date and the amounts have not been reflected in the financial statements for the State Department for the year ended 30 June 2018. In consequence, the recoverability of the debt of KSh.635,899,313 as at 30 June 2018.

Submission by the Accounting Officer

3283) According to file records, the borrowing was approved by the Accounting Officer vide letter Ref. No. NYS/ED/9/27 VOL.VI (67). The current status is that Ksh.635,000,000 was paid on 27th April 2020 leaving a balance of Ksh.899,313. Bank statements are attached in support of these receipts.

Committee Observations and Findings

3284) The Committee observed that:

1) Ksh.635,000,000 had since been paid on 27th April 2020 leaving a balance of Ksh.899,313; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3285) The Committee recommended that:

The matter be resolved.

1285. Sustainability of Okoa Abiria Programme

3286) During the year under review, the Mechanical Transport Fund started Okoa Abiria Programme. The programme was to alleviate transport crisis in some high population density areas within the city during the peak periods by charging Kenya Shillings twenty (20) to the passengers using the service. The charge is standard.

3287) However, the programme had twenty seven (27) buses earmarked for its implementation but as at the time of audit only nine (9) of the buses were still operational while eighteen (18) had broken down and were grounded. The programme further had no budgetary provision to fund the maintenance of the buses and other operational costs, and no subsidy funds have so far been received for the project. Under the circumstances, the sustainability of the Okoa Abiria Programme is highly uncertain.

Submission by the Accounting Officer

3288) This was a Presidential directive to aid citizens when the transport sector had a crisis. The observation by the Audit office is factual since from inception the buses have reduced from twenty-seven (27) to nine (9). The Ksh.20 fare transport charge could not meet the operational costs hence putting the sustainability of the Project at stake. Currently the service has been suspended.

Committee Observations and Findings

3289) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to the Sustainability of Okoa Abiria Programme was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3290) The Committee recommended that:

The matter be resolved.

1286. Fund Balance – Unsupported Adjustments

3291) As reported in the previous year, the fund balance of KSh.8,434,951,013 as at 30 June 2018 comprise of various adjustments passed in the previous years all of which have not been supported to date as highlighted below:

Year ended	Amount (KSh.)	Description
30 June 2014	39,807,203.75	Prior year adjustment error
30 June 2015	26,860,668.96	Prior year adjustment error
30 June 2016	6,951,553.18	Prior year adjustment error
30 June 2016	136,013,262	Changes in Net Book Value
30 June 2017	1,488,772	Prior year adjustment

3292) Further, the balance includes an amount of KSh.327,993,842 reflected as addition to the fund balance during the year 2016/2017 and KSh.205,419,622 in respect of earlier years related to grants received from the State Department of Public Service and Youth in form of stocks. However, the amounts are not adjusted to reflect the stock consumption over the years or any impairment that may be necessitated by changes in fair value. Under the circumstances, the accuracy and completeness of the Fund balance amount of KSh.8,450,439,839 as at 30 June 2018 cannot be confirmed.

Submission by the Accounting Officer

3293) It is correct that these adjustments were never supported. However, the management is in the process of tracing these adjustments and once identified they will be corrected accordingly as per the IPSAS prior year adjustments.

3294) The stocks received relate to long term spare parts which are meant for replacement once the machine has broken down. These spare parts came as a package with the machines. The fact that these spare parts are also bulky in nature, rare in market and whose lead time is long, this explains the reason for being in stock.

Committee Observations and Findings

3295) The Committee observed that:

1) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
2) The Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
3) During the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
4) The matter remained unresolved.

Committee Recommendations

3296) The Committee recommended that

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**
2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1287. Inventory

3297) As previously reported, the statement of financial position reflects an inventory balance of KSh.436,772,316 (2016/2017-KSh.503,774,082) as at 30 June 2018. However, part of the stock balance relates to spare parts procured in year 2014/2015 financial year amounting to KSh.175,780,240 which have had no movement or consumption during the year 2017/2018. This is a possible indicator of obsolescence of the stock but no provision for impairment has been made against the balance.Consequently, the inventory balance of KSh.436,772,316 as at 30 June 2018 is not fairly stated.

Submission by the Accounting Officer

3298) The stock of Ksh.175,780,240 relates to spare parts which came as a package with the procurement of the original machines. The Service has engaged Chief Mechanical Officer in the Ministry of Transport and Public Works with a view of doing valuation of the stocks in-order to give their fair value. Subsequently, they will be adjusted according to IPSAS prior year adjustments.

Committee Observations and Findings

3299) The Committee observed that:

1) The explanation given by the Accounting Officer with regard to inventory was satisfactory, However the correct figures have not been adjusted to date; and
2) The matter therefore remains unresolved.

Committee Recommendations

3300) The Committee recommended that:

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

Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

2) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1288. Unresolved prior year issues

3301) The Committee observed that the above paragraph was conversed at length during the Examination of the Accounts of National Government for Financial Year 2016/ 17 and a recommendation was given to that effect.

44.0. STATE DEPARTMENT FOR GENDER

FINANCIAL STATEMENTS FOR VOTE 1212

Prof. Collette Suda, the Accounting Officer for the State Department of Gender Affairs (Vote 1212) appeared before the Committee on 21st May 2020 to adduce evidence on the Audited Financial Statements for the State Department of Gender Affairs (Vote 1212) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. Mr. Caliph N. Ombati - Chief Finance Officer
2. Henry Mobegi - Head of Accounting Unit

Basis for Qualified Opinion

1291. Presentation of the Financial Statements - Unsupported Adjustments

3302) Adjustments were made between the first submitted financial statements and second set of amended financial statements. These adjustments were however not supported and therefore it was not possible to ascertain whether the financial statements present a true and fair view as at 30 June 2018. Further, the comparative balance for the proceeds from foreign borrowings is not consistent with the previous year audited financial statements and the balance is not reflected in the statements under review. Under the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

Item	**Balance as per first set of Financial Statements**	**Balance as per audited financial statements**	**Unexplained Adjustments**
Compensation of employees – Basic salaries	115,684,205	109,120,755	-6,563,450
Domestic Travel and Subsistence	39,499,988	41,394,453	1,894,465
Printing, Advertising and Information Supplies & Services	1,187,568	767,265	-420,303
Training Expenses	5,660,038	7,540,038	1,880,000
Hospitality Supplies and Services	22,174,038	23,596,124	1,422,086

Office & General Supplies and Services	56,998,709	58,220,509	1,221,800
Routine maintenance – Vehicles and Other Transport Equipment	2,897,680	2,947,680	50,000
Routine Maintenance – Other Assets	725,903	805,703	79,800
Social Security Benefits	3,685,621	6,820,000	3,134,379
Outstanding Imprest	6,739,446	4,040,670	-2,698,776
Comparative Balance			
Proceeds from Domestic and Foreign grants	38,633,262	0	38,633,262
Proceeds from Foreign Borrowings	0	38,633,262	38,633,262
Cash Flow Statement - Borrowing activities – Proceeds from Foreign borrowings and Note 7	0	38,633,262	38,633,262

3303) The Accounting Officer submitted that it was true that Adjustments were made between the first submitted financial statements and second set of amended financial statements as indicated in the table above and no explanation was given on these adjustments. The variances are as explained below:

(a) Compensation of employees – Basic salaries Ksh. -6,563,450

The variance of Ksh.6,563,450 was caused by an erroneous overpayment of Salary which was corrected vide journal entry no. 17724806 of Kshs.**3,429071.40** (Pv. 0369) and Social security wrongly charged in salary account Journal entry No. 17642601 of Ksh.3,134,379. In revising the financial statements the Ksh.**3, 134, 379** was removed from the salaries account and charged to the correct item. Copies of the Journal were provided for the perusal by the Committee.

(b) Domestic Travel and Subsistence Ksh .1,894,465

This variance was caused by surrender of imprests that were effected on this item after the first set of financial statements had been submitted for audit and therefore were reflected in the revised statements. Copies of the surrender vouchers were provided for perusal by the Committee.

(c) Printing, Advertising and Information Supplies &Services Ksh. -420,303

The variance of Ksh.420,303 was caused by journal entries made to correct some errors in the ledger. The journals are: journal no. 1772534 of Ksh.900,606 (CR), journal no. 17725238 of Ksh. 450,303 (DR), and journal no. 17642443 of Ksh.30,000 (DR). Copies were provided for perusal by the Committee.

(d) Training Expenses Ksh. 1,880,000

This variance was caused by surrender of imprests that were effected on this item after the first set of financial statements had been submitted for audit and therefore were reflected in the revised statements. Copies of the surrender vouchers were provided for perusal by the Committee.

(e) Hospitality Supplies and Services Ksh.1,422,086

This variance was caused by surrender of imprests that were effected on this item after the first set of financial statements had been submitted for audit and therefore were reflected in the revised statements. Copies of the surrender vouchers were provided for perusal by the Committee.

(f) Office & General Supplies and Services Ksh. 1,221,800

This variance was caused by surrender of imprests that were effected on this item after the first set of financial statements had been submitted for audit and therefore were reflected in the revised statements. Copies of the surrender vouchers were provided for perusal by the Committee.

(g) Routine maintenance – Vehicles and Other Transport Equipment Ksh. 50,000

The variance of Ksh. 50,000 was caused by surrender of imprest warrant. 2905089 issued to Henry Ngugi Kamau that was erroneously surrendered twice using two different items: Item 2220101 (Maintenance Expenses) - Motor Vehicles, and Item 2210301 (Transport Costs). Copies were provided for perusal by the Committee.

(h) Routine Maintenance – Other Assets Ksh. 79,800

This variance was caused by surrender of imprests that were effected on this item after the first set of financial statements had been submitted for audit and therefore were reflected in the revised statements. Copies of the surrender vouchers were provided for perusal by the Committee.

(i) Social Security Benefits Ksh. 3,134,379

This variance was caused by Social security benefits amount that had been wrongly charged in salary account but which was later corrected vide Journal Entry No. 17642601 of Ksh. **3, 134, 379**. Copies of the Journals were provided for perusal by the Committee.

(j) Outstanding Imprest Ksh. -2,698,776

The decrease of outstanding imprest from **Ksh.6,737,446** to **Ksh. 4,040,670** was due to continued surrender of impressts even after the first set of financial statements had been submitted for audit.

(k) Proceeds from Foreign Borrowing Ksh. 38,633,262

The Accounting Officer submitted that it was also true that comparative balances for the proceeds from foreign borrowing in Note 7 to the statements was not consistent with the previous year audited financial statements. In submitting revised financial statements, this inconsistency was corrected vide Journal No. 14405116 of Ksh.5,063,600 and journal No. 12880497 of Ksh.7,136, 400 giving the correct figure of Ksh.12,200,000. Copies of the Journals were provided for perusal by the Committee.

Committee Observations and Findings

3304) The Committee observed that:

1) It satisfied with the explanations provided by the Accounting Officer; and
2) The matter therefore marked as resolved.

Committee Recommendations

3305) The Committee recommended that:

1) **The matter be resolved.**
2) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

1292. Social Security Benefits - Misstatement of Account Balance

3306) Included in the total payments amount of Ksh.3,931,970,274 is an amount of Ksh.6,820,000 disclosed under Note 17 as Social Security Benefits. The amount refers to service gratuity paid to the former Accounting Officer after termination of contract. The officer was appointed as a Principal Secretary effective from 27 June 2013 to 30 June 2018 (both days inclusive) and hence the payable gratuity was Ksh.6,095,773.00. Records held by the Department shows that gratuity paid to the officer amounted to Ksh.7,845,269 whereas the financial statements reflect an expenditure of Ksh.6,820,000 for the same item. The account balance is therefore understated by Ksh.1,025,269. Further, the gratuity payment of Ksh.1,025,269 was wrongly charged to the basic wages.

Submission by the Accounting Officer

3307) The Accounting Officer submitted that it was true that the amount was paid as gratuity to the former Principal Secretary (Mwanamaka A. Mabruki) which included the additional days which were not factored in the contract and budget.

3308) The amount of Ksh.1,025,269.00 was charged to the basic wages item instead of social security benefits since the allocation on the social security benefits item was insufficient to accommodate the entire amount. Management regrets for charging this expenditure to unrelated item.

3309) The extra days paid to the Principal Secretary was authorized as per the copy of the letter from the Head of Civil Service attached herewith which was provided to the Committee for perusal.

Committee Observations and Findings

3310) The Committee observed that:

1) The Social Security Benefits account balance was understated by Ksh.1,025,269 and the charging of that expenditure to the basic wages account was wrong and unauthorized;
2) While the Accounting Officer was appointed as a Principal Secretary effective from 27.6.2013 to 30.6.2018 (both days inclusive) and hence a payable gratuity of Ksh.6,095,773, it was evident from the records held by the Department that gratuity paid to the Officer amounted to Ksh.7,845,269. No explanation was provided for the variance; and
3) The matter therefore remained unresolved.

Committee Recommendations

3311) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**
2) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
3) **The Accounting Officer must at all times ensure that she avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
4) **The Accounting Officer must at all times ensure that she prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
5) **The Accounting Officer must at all times ensure that she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1293. Acquisition of Assets - Misclassification of Expenditure

3312) The statement of receipts and payment reflect Ksh.482, 888,200 in respect of acquisition of assets during the year. Included herein is an amount of Ksh.477, 000,000 being disbursement to Women Enterprises Fund under Domestic lending and on lending. The transfer in the year under review appears as an item of Acquisition of Assets. Examination of the budget, the trial balance and the payment vouchers relating to the disbursements reveals that the transfers were correctly reflected under domestic lending and on lending but wrongly reflected in the financial statements under Acquisition of Assets. Consequently, the accuracy of the acquisition of assets expenditure of Ksh.482, 888,200 could not be confirmed.

Submission by the Accounting Officer

3313) The Accounting Officer submitted that it was true that the amount of Ksh 477,000,000.00 was disbursement to Women Enterprises Fund under “Domestic Lending” and on Lending, but the amount was posted under Acquisition of assets. This is the correct classification in the current chart of accounts where items, 3110000 (Acquisition of Assets) and 4110000 (Domestic Lending and On-Lending) are both classified as Acquisition of Assets as per Note 18 of the Notes to the Financial Statements in the reporting Template). A copy of the Notes was provided to the Committee for perusal.

Committee Observations and Findings

3314) The Committee observed that:

1) The Committee was satisfied with the explanation provided by the Accounting Officer; and
2) The matter was therefore resolved.

Committee Recommendations

3315) The Committee recommended that:

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

1294. Cash and Cash Equivalents

3316) Included in the statement of assets and liabilities and statement of cash flows is a bank balance of Ksh.166,852 as cash and cash equivalents. Both the Central Bank Certificate of balance and the bank statement shows a figure of Ksh.986,547 while the cash book as at 30 June 2018 reflects a balance of KSh.166,852. The variance has not been reconciled or explained. Further, receipts amounting to Ksh.139,799 in the cash book comprising of R/D Loan Agencies of Ksh.50,970, unspent balance surrender of KSh.67,465 and unspent AIE balances of Ksh.21,364 have not been supported. Consequently, the accuracy of the Cash and cash equivalents balance of Ksh.166,852 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3317) The Accounting Officer submitted that it was true that the statement of assets and liabilities and statement of cash flows reflected a bank balance of Ksh166,852.00 as cash and cash equivalents, whereas both the Central Bank Certificate of balance and the bank statement reflected a figure of Ksh.986,547.00 while the cashbook as at 30 June 2018 reflects a balance of Ksh.166,852.00.

3318) The variance was as result of the exchequer issue of KSh.105,200,000.00 which was received in the month of July, 2018 earmarked to cater for payments of financial year 2017/18.The exchequer issue was therefore applied to clear the above payments resulting to the correct balance of Ksh.166,852.00.The Ksh.166,852.00 in the State Departments account was later recovered by The National Treasury from the department's account being the closing balance in our bank account for the financial year 2017/2018.

3319) It was also true that there were receipts totaling Ksh.139,798.90 composed of:

i. R/D loan Agencies – Ksh.50,969.85. This was an amount paid to a merchant whose bank details differed from those in the bank and thus the transfer was reversed. The Supplier was eventually paid in the following Financial Year (2 Aug-2018). Copies were provided for perusal by the Committee.

ii. **Unspent balance for surrender – Ksh.67,465.08.** This was an amount which was erroneously credited to the State department account. This amount belonged to the Ministry of Labour and social Services and not to the State Department for Gender Affairs. Copies were provided for perusal by the Committee.

iii. **Unspent AIE balances – Ksh.21,364.00.** The amount of KSh.21,364.00 was meant for Ministry of and Labour Social Services, but was erroneously credited to the department accounts. Subsequently, the same amount was recovered from bank balance in August, 2018. Copies were provided for perusal by the Committee.

Committee Observations and Findings

3320) The Committee observed that:

1) The receipts in the cashbook amounting to Ksh.139,799 in the cash book comprising of: - R/D Loan Agencies of Ksh.50,970, Unspent balance surrender of Ksh.67,465 and Unspent AIE balances of Ksh.21,364 had been explained, supported and verified in the bank statement;
2) Both the CBK certificate of balance and the bank statement have a figure of Ksh.986,547 while the cash book as at 30 June 2018 reflected a balance of Ksh.166,852;
3) A request to the CBK by the Department for confirmation of the balance as at the closure of the year has not been responded to; and
4) The matter is, therefore, resolved subject to confirmation of the bank balance by the CBK.

Committee Recommendations

3321) The Committee recommended that:

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.

1295. Summary Fixed Asset Register

3322) The department did not maintain a Summary fixed asset register during the year under review. Therefore, the completeness and accuracy of the fixed asset balance of Ksh.38,692,930 as reflected in the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3323) The Accounting Officer submitted that it was true the state department did not maintain a Summary fixed asset register during the year under review. The state department has since maintained fixed Asset Register which is updated as and when new assets are acquired as required by the IPSAS (International Public Sector Accounting Standards). A Copy was provided to the Committee.

Committee Observations and Findings

3324) The Committee observed that:

1) The Committee observed that the asset register submitted had been updated to include the fixed asset balance of Ksh.38,692,930 as reflected in the financial statements as at 30 June 2018; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3325) The Committee recommended that:

The matter be resolved.

1296. Communication Supplies and Services

3326) During the year under review, the Department procured calling cards for the officers worth Ksh.1,335,000.00 Out of this payment, airtime worth KSh.141,000.00 was procured through temporary imprest in contravention of the regulations on control over imprest. Airtime worth Ksh.1,194,000.00 for the months of July to September 2017 was done through direct procurement method but the Department has not provided evidence to show that the procurement was reported to the Public Procurement Regulatory Authority as required. Further, out of the total of Ksh.1,335,000.00 airtime given to officers, airtime worth KSh.627,000.00 was provided to officers above their applicable entitlement contrary to regulations. As a result, the propriety of the airtime expenditure of Ksh.1,335,000.00 and recovery of the overpayment of KSh.627,000.00 could not be ascertained.

Submission by the Accounting Officer

3327) The Accounting Officer submitted that it was true that the State Department purchased airtime cards using temporary impress to provide the then accounting officer who urgently required airtime for communication since a supplier had not been identified.

3328) It was also true that direct procurement was used because the supplier identified, Tabelo General Works and Suppliers falls under AGPO and was in the pre-qualified list. National Treasury Circular requires that AGPO suppliers be given preference in the procurement process. A copy was provided for perusal by the Committee.

3329) The state department relocated to Telposta Towers from Treasury, and officers were yet to be installed with telephone equipment or internal and external communication. That is why the distribution of airtime was done considering full entitlement of officer's benefits to enhance proper communication in the department as per circular No. OP/CAB/15 dated 5/3/2010.

Committee Observations and Findings

3330) The Committee observed that:

1) The Committee observed that the reason given by the Accounting Officer for procuring airtime worth Ksh.141,000 using imprest in contravention of the regulations on control over imprest was not satisfactory;
2) The Committee also observed that no evidence was provided to show that the direct procurement of airtime worth Kshs.1,194,000 was reported to the Public Procurement Regulatory Authority as required; and
3) The matter therefore remains unresolved.

Committee Recommendations

3331) The Committee recommended that:

> **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**

1297. Domestic Travel and Subsistence

3332) Included in the domestic travel and subsistence allowance balance of Ksh.41,394,453.00 are irregular taskforce allowances payments amounting to Ksh.5,028,000.00. The officers were paid when performing various tasks that were under their normal work obligations and in line of their duties and hence mandated to perform. Further, the payments were made without necessary authority from the Accounting Officer as required. Also included in the domestic travel and subsistence is an amount of Ksh.500,000.00 paid to one thousand participants during a Women Enterprise Fund (WEF) capacity building program as fare refunds. It was not explained which criteria was applied to identify the participants and why an expense relating to WEF was included in the Department Financial Statements and not Women Enterprise Fund's financial statements. In consequence, the propriety of the total expenditure of Ksh.5, 528,000.00 could not be confirmed.

Submission by the Accounting Officer

3333) The Accounting Officer submitted that it was true that included in the domestic travel and subsistence allowance balance of Ksh.41,394,453.00 were taskforces allowances payments amounting to Ksh.5,028,000.00. The National Treasury via its circular gave Ministry's and department a guideline that task forces should be formed in order to ascertain the genuine pending bills. It is against this authority that the department used to form task force to work on pending bills in order to ascertain their authentication and existence**.** A copy was provided for perusal by the Committee.

3334) It is also true that included in the domestic travel and subsistence is an amount of Ksh.500,000.00 paid to One thousand (1,000) participants during a Women Enterprise Fund (WEF) capacity building program as fare refunds at Ksh.500.00 each. The department used WEF County Committees to identify the participants. Women Enterprise Fund catered for the facilitators, tents and food for the participants while the department only catered for transport.

Committee Observations and Findings

3335) The Committee observed that:

1) The position stated by the Accounting Officer had not been supported and hence the taskforce allowances of Ksh.5,028,000 were paid to Officers when performing tasks that were under their normal work obligations and in line of their duties and mandated to perform;
2) The payments were made without necessary authority from the Accounting Officer as required of taskforces;
3) The document submitted in support of the explanation was the Salaries and Remuneration Commission - SRC Circular for the applicable rates of taskforce allowances which did not address the issue raised;
4) In addition, the criteria applied for identifying the participants of a WEF Capacity building program had not been explained and no reason was given as to why an expense related to WEF was included in the Department's financial statements instead of financial statements for WEF; and
5) The matter therefore remained unresolved.

Committee Recommendations

3336) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**
2) **Within One (1) month upon tabling and adoption of this report, the Accounting Officer should provide all necessary approvals that led to formulation of the taskforce**.

1298. Outstanding Imprests

3337) The statement of Assets and Liabilities reflects a balance of Ksh.4, 040,670.00 as outstanding imprest for the year ended 30th June 2018. These imprests should have been surrendered or otherwise recovered in full from the salaries of the defaulting officers with interest. The non-recovery or non-surrender has not been explained. The figure for outstanding impressts of Ksh.4,040,670.00 as per the financial statements does not agree with the balances reflected in the trial balance and imprest register of Ksh.6,851,199 and Ksh.11,414,313 respectively. The resultant variances of Ksh.2,810,529.00 and Ksh.7,373,643.00 between the three sets of records have not been reconciled. Further, analysis of the imprest register showed that contrary to regulations and procedures, the Department issued officers with multiple imprests amounting to Ksh.10,905,525.00 and on some instances failed to record in the imprest register the details of imprests holders and the respective amounts issued totalling Ksh.787,182. In view of the foregoing, the completeness, accuracy and recovery of the outstanding imprests of Ksh.4,040,670.00 could not be confirmed.

Submission by the Accounting Officer

3338) The Accounting Officer submitted that it was true that the statement of Assets and Liabilities reflects Ksh.4,040,670.00 as at 30th June, 2018 in respect of outstanding imprest. The outstanding imprests have since been surrendered where by Ksh.219,894.00 was recovered through the payroll**.** Copies of proof of surrender were provided for perusal by the Committee.

3339) However, the following officers are department's payroll and the state department has made follow up to ensure that the officers surrender their imprests.

i.	Edward N. Macharia	Ksh.169,894
ii.	Jacinta W. Migwi	Ksh. 199,894
iii.	Charles O. Ayako	Ksh. 179,894

3340) The discrepancies which were noted between the imprest register and the trial balance in the IFMIS have since been updated and reconciled.

3341) The multiple imprests totalling to Ksh 10,905,520.00 were paid to the same officers who were assigned duties of distributing of bulk sanitary towels to different parts of the Country for the various schools. The imprests accumulated until late June, 2018 when the exchequer was received. This implies that though in record the officers had been issued multiple imprests, the actual payments had not been effected due to delays in receiving exchequers.

Committee Observations and Findings

3342) The Committee observed that:

1) Out of the imprests that should have been surrendered or otherwise recovered as at the closure of the financial year of Kshs.4,040,670 only Kshs219,894 had been recovered. The balance of Kshs.3.820,776 remains unaccounted for;
2) No evidence was submitted to show the purported efforts being taken to recover imprests of Kshs.549,682 from 3 officers who were not in the Department's payroll;

3) Further, no reconciliation was submitted for the variances of Ksh.2,810,529 and Ksh.7,373,643 between balances reflected in the financial statements, trial balance and the imprests register;
4) In addition, the reason given for issuance of multiple imprests to Officers amounting to Ksh.10,905,525 was not satisfactory;
5) That note withstanding, the details of imprests holders and the respective amounts issued totaling Ksh.787,182 had neither been explained nor indicated; and
6) The matter therefore remained unresolved.

Committee Recommendations

3343) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**
2) **Within three months upon tabling and adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.**

1299. Pending Bills

3344) The financial statements under Note 28.1 and Annex 1, reflects pending bills amounting to Ksh.222,945,974.00 as at 30th June 2018. The following issues were noted:

1299.1 Procurement

3345) During the year under review the Department contracted various suppliers for the supply and delivery of sanitary towels to public primary, special primary and secondary schools at a total cost of Ksh.420,618,059.00. The contracts were signed on 27 and 28 March 2018 with deliveries expected between 27 April and 15 June 2018. The expenditure on sanitary towels of Ksh.218,421,103.00 was reported as pending bills and paid in the subsequent financial year, 2018/2019. Further, some contractors were over paid and others underpaid by Ksh.6,189,081.00 and Ksh.5,273,863.00 respectively. The overpayments and under payments were not explained.

Submission by the Accounting Officer

3346) The Accounting Officer submitted that it was true the correct list of pending bills was Ksh 222,945,974.45 and all the bills were paid in in the subsequent financial year, 2018/2019.

Committee Observations and Findings

3347) The Committee observed that:
1) Pending Bills were fully cleared in the financial year 2018/2019;
2) There were overpayments and under payments to the Contractors of Ksh.6,189,081 and Ksh.5,273,863 respectively;

3) The overpayments and under payments to the Contractors of Ksh.6,189,081 and Ksh.5,273,863 respectively had not been satisfactorily explained; and
4) The matter therefore remained unresolved.

Committee Recommendations

3348) The Committee recommended that:

Accounting Officers should ensure that pending bills in any financial year are avoided at all cost. Where pending bills exist, they should form the first charge in the budget of the subsequent year.

1299.2 Deliveries

3349) Records held by the Department showed that for the contractors paid, out of the expected quantities of 7,451,146 units only 7,050,460.00 units were supplied. The under supply of 449,186 units worth Ksh.12,447,742.00 which are past the due dates of deliveries as per the contracts have not been explained.

3350) In view of the foregoing, the completeness and accuracy of the pending bills balance of Ksh.218,421,103 could not be confirmed as at 30 June 2018.

Submission by the Accounting Officer

3351) The Accounting Officer submitted that it was true that during the year under review the department contracted various suppliers for supply and delivery of sanitary towel to public primary, special primary and secondary schools at a total cost of Ksh.420,618,059.00. The contracts were signed on 27th and 28th March, 2018 with delivery expected from 27th of April 2018 up to 15th June 2018.

3352) It is true that the expenditure on sanitary towels of Kshs 218,421,103.00 was reported us pending bills and paid in the subsequent Financial Year 2018/2019. The table below explains all the deliveries made. The surplus of Kshs. 108,079.45 was not paid for. The department paid for the quantities that had been ordered. The suppliers who had oversupplied, gave unconditional Debit note and the rest gave the excess supply on good will to support the girls to stay to school.

3353) The true quantity ordered was 7,654,331 and the quantity delivered was 7657919. There was surplus of 3,588 worth Kshs. 108,079.45 was not paid for. The underpayment was therefore caused by oversupply way beyond quantities ordered. The department paid only for the ordered quantities.

1. **Platinum**

County	Quantity supplied	Auditor observation			Deliveries		
Machakos		Qty required	Surplus	deficit	Quantity ordered	Surplus	deficit
Athi River	25052						
Mwala	25936						
Yatta	68160						
Masinga	64764						
Kathiani	45596						
Matungulu	50900						
Kangundo	36988						
Machakos	67608						
Total	**435004**	**434991**			**434991**	**13**	
Kajiado							
Loitoktok	60928						
Mashuuru	20696						
Isinya	14916						
Kajiado West	27164						
Kajiado North	33076						
Kajiado Central	51648						
Total	**208428**	**208418**			**208418**	**10**	
Nairobi							
Westlands	41828						
Mathare	19100						
Kamkunji	28424						
Starehe	37292						
Embakasi	56760						
Kasarani	29280						
Makadara	37860						
Dagoreti	38660						
Kibra	21104						
Njiru	39124						
Total	**357432**	**357427**			**357427**	**5**	
Grand Total	**1,000,864**	**1,000,861**					

2. Medionics Health Care

County	Quantity supplied	Auditor observation			Deliveries			
Makueni		Qty required	Qty supplied	deficit	Qty ordered	surplus	deficit	
Makueni								
Makueni	40496							remarks
Kibwezi	92932							
Kilungu	31368							
Makindu	37960							
Makueni	49416							
Mbooni east	43024							
Mbooni West	48496							
Mukaa	43360							
Nzaui	57816							
Total	**444868**	**444868**	**-**	**-**	**444868**	**-**	**-**	
Kitui	65853							
Ikutha	46176							
Katulani	21488							
Kisasi	23312							
Kitui Central	35788							
Kitui West	29700							
Kyuso	34768							
Lower	25220							

Yatta								
Matinyani	19216							
Mumoni	28044							
Mutito	11972							
Mutomo	60860							
Mwingi Central	49568							
Mwingi East	49476							
Mwingi West	9004							
Nzambani	22858							
Tseikuru	22892							
Total	**556195**	**556133**	**-**	**-**	**556133**	**63**	**-**	
Meru								
Buuri	35284							
Igembe Central	33788							
Igembe North	81360							
Igembe South	27416							
Igembe South	26280							
Igembe North	27412							
Imenti North	41539							

Imenti North	36456							
Imenti South	16908							
Meru Central	29908							
Tigania east	77460							
Tigania west	47116							
Tigania West	6660							
total	**487587**	**487,571**			**487,571**	**16**	**-**	
Embu	36404							
	21788							
	27628							
	42708							
	59276							
Total	**187804**	**187803**			**187803**	**1**	**-**	
Tharaka Nithi	40364							
	42896							
	7980							
	26096							
	41584							
Total	**158920**	**158918**			**158918**	**2**	**-**	
Grand Total	**1,835,374**	**1835292**	**1771506**	**63,786**	**1835292**	**82**	**-**	

Total deliveries -1,835374   Ordered Quantity- 1,835,292

3354) Quantity ordered is less than the deliveries by 82 packets, but the department paid what was ordered. There was no deficit and the question of less delivery was not there. So the cost of deliveries was Ksh.54, 966,905.70 and not Ksh. 53,056,604.70.

3. Inter-consumer

County	**Quantity supplied**	**Auditor observation**			**Deliveries**		
		Qty supplied	Qty surplus	Qty deficit	Qty ordered	surplus	deficit
Mombasa							
Changamwe	15420						
Jomvu	15424						
Kisauni	24744						
Likoni	21120						
Mvita	20108						
Nyali	20284						
Total	117100	**117,079**			**117079**	21	**-**
Lamu	46080	42,242			42242	38	
Kilifi	48,831	-			46841		
Tana River	20256						
Tana Delta	41360						
Tana River	30624						
Total	**92240**	**84536**			**84536**		
Garissa							
Balambala	9408						
Garissa Dadaab	11604						
Garissa Fafi	8220						
Garissa County	24624						
Hulugho	6832						
Ijaara	8454						
Lagdera	8541						
Total	**77,683**	**77,718**			**77,718**	**-**	
Wajir							
Buna	5788						
Eldas	5780						
Habaswein	12628						
Tarbaj	10434						
Wajir East	31356						

Wajir North	4972						
Wajir South	6960						
Wajir West	17366						
Total	**95,286**	**95,263**			**95,263**	**23**	**-**

County	**Quantity supplied**	**Auditor observation**			**deliveries**		
		Qty required	Qty surplus	Qty deficit	Qty ordered	Surplus	deficit
Mandera							
Banisa	12164						
Mandera Hafey	6972						
Mandera Central	23612						
Mandera East	34968						
Mandera North	23324						
Mandera West	20708						
Total	**121748**	**121748**	**-**	**-**	**121748**	**-**	**-**
Taita Taveta							
Mwatate	26680						
Taveta Sub County	27888						
Voi	26880						
Voi	2932						
Wundanyi	18656						
Total	**103,036**	**103033**	**-**	**-**	**103,033**	**3**	
Kwale							
Kinango	116568						
Matuga	68252						
Lunga Lunga	50160						
Lunga Lunga	4856						
Msambweni	39825						
Msambweni	12000						

Total	**291661**	**288589**			**288589**	**3072**	
Grand total	**981643**				**979086**	**30588**	**-**

There is no deficit but surplus of 11,033 packets. He gave unconditional debit note.

4. Imani Holding

County	**Quantity supplied**	**Quantity ordered**
Kisii		
Gucha	32694	
Gucha South	69010	
Kenyenya	56875	
Kisii Central	92470	
Kisii South	46757	
Marani	44415	
Masaba South	45336	
Masaba North	35721	
Nyamache	60711	
Sameta	26870	
Borabu	25106	
Manga	35077	
Nyamira North	60824	
Total	**631866**	**631866**

3355) The Accounting Officer submitted that it was true quantity required by two counties is 698460, Imani supplied 631866 and the balance of 66594 was supplied by power option through delivery note No.01 and 151 each quantity 7129 and quantity 59668 respectively.

5. Yomason Contractors

County	**Quantity supplied**	**Auditors observation**			**Deliveries**		
		Qty required	surplus	deficit	Quantity ordered	surplus	deficit
Kilifi							
Bahari	44308						
Ganze	29665						
Kaloleni	20160						
Kaloleni	47344						
Kilifi south	76133						
Magarini	78572						
Malindi	83456						
Rabai	39948						
	419586	**419586**	**-**	**-**	**419586**	**-**	**-**

Total							

3356) The remaining quantity for Kilifi were delivery by inter consumer by delivery No 157 of quantity 48,831 to make the total of 468416. Total quantity supplied at Kilifi by both companies is 468417.

6. Premium Computers

County	**Quantity supplied**	**Auditors observation**			**Deliveries**		
		Qty required	surplus	deficit	Quantity ordered	surplus	deficit
Migori							
Kuria West	73857						
Kuria East	46424						
Nyatike	93051						
Uriri	54082						
Rongo	50327						
Awendo	53879						
Migori	100090						
Total	**471710**	**471710**	**-**	**-**	**631865**	**-**	**-**
Homabay							
Ndhiwa	98382						
Rachuonyo North	61773						
Total	**631865**				**631865**	**-**	**-**

3357) Going by the deliveries, premium delivered quantity 63865 but not as indicated in appendix 6. Quantity 471709 but shared Homa Bay with power option to make the total quantity 631865 as required in the order.

7. Power option

County	**Quantity supplied**	**Auditors observation**			**Deliveries**		
Siaya		Qty required	surplus	deficit	Quantity ordered	surplus	deficit
Siaya							
Bondo	74547						
Gem	84263						
Rarieda	73066						
Siaya	100272						
ugenya	61544						

Ugunja	43271						
Total	**436963**				**436961**		
Homabay							
Mbita	47142						
Suba	49799						
Rachuonyo south	9800						
Rachuonyo North	21569						
Total	**128299**				**490245**		
Grand total	**632059**	**994003**			**631886**	**173**	**-**

3358) The Accounting Officer submitted that it was also true that total quantity for Homa Bay is 4902451 but power option supplied only 128299, the remaining balance was supplied by premium computers services, quantity 98382, 61773. Triple N capital supplied 201791. To be noted is that lot 6 was shared by four companies. i.e Imani Holding, premium, power option and triple N capital

8. Abey enterprises

County	**Qty supplied**	**Auditor remarks**			**deliveries**		
		Qty required	surplus	deficit	Quantity ordered	surplus	deficit
Turkana							
Loima	808						
Loima	27180						
Kibish	4896						
Turkana Central	56212						
Turkana East	28672						
Turkana North	19612						
Turkana South	2164						
Turkana South	63876						
Turkana West	59448						
Turkana West	18468						
Total	**281336**	**280,532**			**280532**		
Elgeyo marakwet							
Keiyo	**36612**						

Keiyo South	**55544**						
Marakwet East	**45724**						
Marakwet West	**56952**						
Total	**194832**	**194831**			**194831**		
West pokot							
Kipkomo	**29204**						
Pokot Central	**48900**						
Pokot Central	**47464**						
Pokot North	**58512**						
Pokot South	**50932**						
Pokot West	**97824**						
Total	**332836**	**332,836**			**332836**		

9. Trans Nzoia

County	**Quantity supplied**	**Auditors observation**			**Deliveries**		
		Qty required	surplus	deficit	Quantity ordered	surplus	deficit
Endebess	48540						
Kimimini	56528						
Kwanza	86316						
Transnzoia east	103324						
Transnzoia east	808						
Transnzoia West	109508						
Total	**405024**	**405024**			**405024**		

County	**Quantity supplied**	**Auditors obsevation**			**Deliveries**		
Uasin Gishu		Qty required	surplus	deficit	**Quantity ordered**	surplus	deficit
Eldoret East	45040						
Eldoret west	80372						
Kesses	64920						
Moiben	39272						
Soy	60728						

Wareng	20384						
total	**310716**				**310713**		
Grand total	**1544744**	**1577316**			**1523935**	**20,809**	**-**

Summery for deliveries for all nine firms
Cost of deliveries
Total quantity required 7,654,331, total amount 218,421,001.45
Total Quantity Supplied:
1,524,744+1,000,864+1,835,292+631,866+419,586+981,643+632,059+631,865=7,657,919

COUNTIES	UNITS	Rate	AMOUNT
Trans nzoia/ uasin Gishu	1,524,744	29.5	44,979,948.00
Meru/Tigania/Tharaka Nithi	1,835,292	29	26,022,464.00
Migori/ Homabay	631,866	26.65	16,839,288.00
KIilifi	419,586	30	12,587,580.00
Taita taveta/ Kwale	981,643	30	29,449,290.00
Siaya/Homabay/ Bondo	63,2059	26.65	16,844,372.35
Migori/ Homabay	63,1865	26.65	16,839,202.25
Nairobi/Machakos/Kajiado	1,000,864	26	26,022,464.00

Total amount 218,529,080.9
Less actual payment =218,421,001.45
Amount under paid =108,079.45

Further Submission
Medionics Healthcare

3359) Dr. Kinoti Arimi, the Managing Director for Medionics Healthcare appeared before the Committee accompanied by the following officer: -

8. Mr. Samuel Gachina - General Manager

And submitted as follows:

1) During the financial year 2017/2018 they were awarded a contract dated 27th March 2018 to supply sanitary towels at a cost of Ksh 29.95 per packet of 8pcs;
2) They were issued two purchase orders:
    a) Purchase order No. 303 Quantity; 1,835292 Packets valued at Kshs. 54, 966, 995.40 dated 11th April 2018 for Lot 3; and
    b) Purchase Order No. 374 Quantity; 2,246,237 Packets valued at Ksh. 67, 273,798.15 dated 14th June 2018 for Lot 4.
3) Medionics Healthcare supplied the sanitary towels in full and delivery notes were provided for perusal by the Committee;

4) Medionics Healthcare oversupplied by 1000 units of sanitary towels free of payment;
5) Medionics Healthcare is a manufacturer of sanitary towels with its factory based in Thika;
6) Medionics Healthcare was paid in full. Copies of invoices No. INV00021857 and INV00020784 were provided for perusal by the Committee;
7) They have supplied sanitary towels previously to the Ministry of Education; and
8) The State Department for Gender acknowledged full supplies were made and a copy of the comfort letter **Ref. MPSYGA/SDGA/PROG/10/10** dated **29th November, 2018** was attached for perusal by the Committee.

Abyey Limited

3360) Mr. Mohamed Ali, the Director and proprietor for Abyey Limited appeared before the Committee and submitted as follows:

1) During the financial year 2017/2018 they supplied 1,523,935 sanitary towels imported from China at a cost of Ksh 30.00 per packet of 8pcs;
2) They were issued two Purchase Orders and supplied the sanitary towels in full;
3) Abyey Limited oversupplied by 20, 809 units of sanitary towels free of payment;
4) Abyey Limited was paid in full a total amount of Ksh. 44, 956, 080.00;
5) They have supplied sanitary towels previously to the Ministry of Education; and
6) There was no letter of acknowledgement written by the Department.

Platinum Enterprises

3361) Ms. Catherine Mithamo Githui, the Director and proprietor for platinum Enterprises appeared before the Committee accompanied the following officer:

1. Ms. Juliah Githaiga - Technical Assistant

and submitted as follows:

1) During the financial year 2017/2018 they supplied 1,000,862 sanitary towels imported from China at a cost of Ksh 30.00 per packet of 8pcs;
2) They were issued two Purchase Orders and supplied the sanitary towels in full;
3) Platinum Enterprises oversupplied by 32 units of sanitary towels free of payment;
4) Platinum Enterprises was paid in full a total amount of Ksh. 26,021,026.00;
5) They have supplied sanitary towels previously to the Ministry of Education;
6) The highest tender they supplied was for sanitary towels worth of Ksh. 34 million to the ministry of Education; and
7) There was no letter of acknowledgement written by the Department.

Inter-Consumer Products Limited

3362) Mr. Paul Kinuthia, the Managing Director and proprietor for Inter-Consumer Products Limited appeared before the Committee and submitted as follows:

1) Inter-Consumer Products Limited is a Kenyan manufacturing company located along Mombasa Road near Jomo Kenyatta International Airport;
2) They compete with Chinese products which are of very low quality and which, leave our girls vulnerable and exposed;
3) That buy Kenya build Kenya should be a policy put into law to govern, protect and cushion local manufacturers from the well-established companies bringing in cheap products from abroad;
4) On 2nd March 2018, the company was awarded a tender by the State Department for Gender Affairs referenced MPSYGA/SDGA/PROC/3/5 for delivery of 979,035 packets of sanitary towels worth of Ksh.29,371,050.00 to Public Primary and Special Primary and Secondary schools in the following counties: Mombasa, Lamu, Kilifi (Ganze), Tana River, Garissa, Wajir, Mandera,, Taita Taveta and Kwale;
5) They executed the award and provided copies of the following documents for perusal:
   - Award of tender letter;
   - Acceptance of award of tender letter;
   - Contract;
   - Purchase Order;
   - Delivery schedule;
   - Copies of delivery notes;
   - Commercial invoice; and
   - Bank statement showing the amount received
6) There was an oversupply of 2,608 packets which were not paid for;
7) Inter-Consumer Products Ltd was paid in full a total amount of Ksh.29,371,050.00;
8) They have supplied sanitary towels previously to the Ministry of Education;
9) There was no letter of acknowledgement written by the Department; and
10) Besides the contract for Inter-Consumer Products Ltd, the following companies were awarded tenders based on the manufacturer authorization issued to them by Inter-Consumer Products Ltd. They include:
   (i) Yamason Contractors – Lot 5. Made full purchase of 419,586 packets as per the award;
   (ii) Rapid Medical Supplies – Lot 1. Purchased only 109,440 packets out of 1,060,133 packets as per the award;
   (iii) Encarter & Rapid Limited – Lot 8. Purchased only 92,160 packets out of 3,221,295 packets as per the award; and
   (iv) Rodium Technologies – Lot 4. No purchase at all
11) Inter-Consumer Products Limited discontinued its contracts with Rapid Medical Supplies, Encarter & Rapid Limited and Rodium Technologies due to various

commercial challenges. This was brought to the attention of the Principal Secretary in-charge of the State Department for Gender Affairs vide a letter dated 27th June 2018. The letter was stamped received by the Office of the PS on 27th June 2018.

Committee Observations and Findings

3363) The Commkittee observed and found that:

1) The Committee was satisfied with the explanations provided by the Accounting Officer and corroborated by the evidence from the select suppliers; and
2) The matter was, therefore, marked as resolved.

Committee Recommendations

3364) The Committee recommended that:

The matter be resolved.

Other Matter

1300. Fuel, Oils & Lubricants - Un-accounted Expenditure

3365) The Department paid for supply of fuel worth Ksh.10,921,980 in the year under review. Although the procurement was done procedurally, the procured fuel was not accounted for in both the fuel registers and the motor vehicles work tickets. As a result, the expenditure of Ksh.10,921,980 on fuel, oils and lubricants has not been accounted for as at 30 June 2018.

Submission by the Accounting Officer

3366) The Accounting Officer submitted that it was true that the Department paid for supply of fuel worth Ksh.10,921,980 in the year under review. Although the procurement was done procedurally, the procured fuel was not accounted for in both the fuel registers and the motor vehicles work tickets. The department has now updated the fuel register and the motor vehicles work tickets.

Committee Observations and Findings

3367) The Commkittee observed and found that:

1) The Committee observed that the fuel register and work tickets maintained by the Department had not accounted for the fuel Kshs.10.9M procured during the year;
2) The Committee also observed that the supporting document submitted was the supplier's two-year statement, 1 July 2016 - 30 June 2018, which did not address the audit query; and
3) The matter was therefore unresolved.

Committee Recommendations

3368) The Committee recommended that:

1) **The Accounting Officer during the financial year under review (2017-2018) should be held liable for the above breaches.**

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

3) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

4) **Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1301. Progress on follow up of auditor recommendations financial year 2016/2017

In the previous financial year 2016/2017 audit, several issues were raised which formed the basis for the audit opinion. In the year under review, under Note 29 to the financial statements, the status of all these issues remains unresolved yet it is indicated that they were expected to have been resolved by 30 September 2018. The positions of these issues have not changed.

Submission by the Accounting Officer

3369) The state department has acted upon the recommendations as indicated in the table below:

Re: Action On Public Accounts Committee Recommendations

Financial Year	Paragraph No. and Title	Recommendations by PAC	Action Taken
2016/2017	**508. Misallocation of Expenditure**	Accounting Officers must ensure that proper management and control of, and accounting for their finance in order to promote the efficient and effective use of budgetary resources pursuant to the provisions of section 68(2)(m) of the Public Finance Management Act, 2012.	The State Department has put in place enough controls to ensure that expenditures are charged to the relevant line items for which resources have be appropriated.
2016/2017	**509. Second High Level Meeting (HLM2) Expenditures**	Matters resolved.	Matters resolved.
2016/2017	**510. Domestic Travel and Subsistence**	The Accounting Officer should within three (3) months after the adoption of this report ensure that the supporting documents of	Documents for air tickets have now been provided to the Auditor General for verification.

		Kshs. 966,160 for air tickets are submitted to the auditor general for audit verification.	
2016/2017	**511. Routine Maintenance – Motor Vehicles & Other Transport Equipment**	Matters resolved.	Matters resolved.
2016/2017	**512. Routine Maintenance- Other assets**	The Accounting Officer should, within three (3) months of the tabling of this report, provide the relevant documents to the Auditor General, to enable verification of supplies, works done and original payment vouchers.	The Certificate of completion of refurbishment and the original payment vouchers have now been availed to the Auditor General for verification.
2016/2017	**513. Acquisition of Assets**	Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets in a way which ensures that the National Government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.	The department has ensured that all the procurement and payment of goods and services are done by the UN Women project, who forwards only expenditure returns for record purposes.
2016/2017	**514. Hospitality Supplies and Services**	The accounting Officer should , within three (3) months of tabling this report, provide the relevant documents to the Auditor General, to enable verification of Supplies, works done and original payment vouchers.	Relevant documents and payment vouchers have now been provided to the Auditor General for verification.
2016/2017	**515. Pending Bills**	The accounting Officer should, within three (3) months of tabling this report, submit the relevant documents to support pending bills worth Kshs.1.3M to the Auditor General.	Relevant documents and payment vouchers have now been provided to the Auditor General for verification.
2016/2017	**516. (i) Fixed Asset Register**	The Accounting Officer should, within three (3) months of tabling this report, ensure the assets	The Assets Register has been updated and submitted to both the

		register is updated and submitted to the National Assembly for examination.	National assembly and the Auditor General for examination.
2016/2017	**517. Procurement of Goods and Services** **(i). Direct Procurement and Request for Quotations** **(ii). Cash Procurements**	(i). Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring goods and services pursuant to the provisions of section 68(2)of the Public Finance Management Act, 2012. (ii). Within three (3) months upon adoption of this report, the ODPP should commence prosecution process for those Officers found culpable.	(i).The department has ensured that no cash procurements are made and direct procurement is no longer encouraged.

3571) <u>The Committee observed that Paragraph 1302 to 1303 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

45.0. STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

FINANCIAL STATEMENTS FOR VOTE 1252

Mr. Kennedy Oget, the Accounting Officer for the State Law Office and Department of Justice (Vote 1252) appeared before the Committee on 23rd September 2020 to adduce evidence on the Audited Financial Statements for the State Law Office and Department of Justice (Vote 1252) for the Financial Year 2017/2018. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

Ms. Christine Agumba	-	Deputy Solicitor General
Ms. Mary Njenga	-	Deputy Solicitor General
Ms. Njeri Wachira	-	Deputy Solicitor General
Ms. Florence Amoit	-	Secretary Administration
Ms. Concepta Wasilwa	-	Chief State Counsel
Dr. Alela Daniel	-	Director HRM & D
Mr. Erastus Mablu	-	Deputy Director Finance and Administration
Mr. Elijah Kibiru	-	Head of Accounts
Mr. Titus Nderitu	-	Chief Economist
Mr. Bernard Muliro S.	-	Assist. Accountant General
Mr. John Kariuki	-	Principal Accountant

Basis for Adverse Opinion

1304. Inaccuracies in the Financial Statements

3370) There were discrepancies between balances in the financial statements and the integrated Financial Management Information System (IFMIS) and also discrepancies between balances in the financial statements and balances in the ledger. There were also variances between the financial statements and notes to the financial statements including casting errors.

Submission by the Accounting Officer

3371) The Accounting Officer submitted as follows: -

The discrepancies between the Integrated Financial Management Information System (IFMIS) Financial Statements and the Presented Financial Statements were noted to be as follows: -

Item Description	Financial Statement Figures (Kes)	IFMIS Figures (Kes)	Variance (Kes)
Other Receipts	0	370,077,411	-370,077,411
Use of Goods and Services	470,673,571	609,437,236	-138,763,665
Bank Balances	331,029,439	-2,536,837,757	2,867,867,196
Cash Balances	109,912	10,056,109,462	-10,055,999,550
Accounts Receivable–Outstanding Imprest	5,894,960	442,466,985	-436,572,025
Accounts Payable – Deposits	181,837,476	5,399,605,437	-5,217,767,961
Funds balance b/f	155,183,496	2,330,452,818	-2,175,269,322
Surplus/Deficit for the Year	13,339	231,327,075	-231,313,736

3372) The discrepancies were caused by lack of auto-reconciliation, A-I-A from SAGAs not captured in IFMIS and payments in cash not fully processed in the system. There were also several IFMIS budget item codes not defined in the system for full capture of expenses. Revenue was also being captured as other receipts in IFMIS whereas they were already reported under the revenue statements. These anomalies have now been corrected and effected to avoid the discrepancies in the subsequent financial years. The clean-up in IFMIS has been an on-going process and the financial statements are now correctly done through the system and the anomalies which were evident now avoided.

3373) The following discrepancies were noted between the figures in the financial statements and figures reflected in the ledger: -

Item Description	Financial statement figure (Kes)	Ledger Figure (Kes)	Variance (Kes)
Bank Balance -Development and Deposit Accounts	326,933,956	354,319,238	(27,385,282)
Communication, supplies and services	10,143,007	10,164,007	(21,000)
Hospitality, Supplies and Service	30,229,316	28,971,922	1,257,394
Office, General Supplies and Services	18,184,133	18,100,433	83,700
Other Operating Expenses	195,572,660	334,591,335	(139,018,675)
Refined fuels and Lubricant for Transport	13,920,183	13,945,183	(25,000)
Domestic Travels and	67,733,109	70,407,509	(2,674,400)

Subsistence			
Outstanding Imprest	5,894,960	62,749,315	(56,854,355)
Transfer to Other Government Entities	1,951,724,100	1,955,755,450	4,031,350
Salary Advance	-	72,688	72,688

3374) This was due to the on-going processing of transactions relating to that financial year in the succeeding period. This involved cancelling past year Outstanding Commitments, impests surrenders and cash payments. The failure of auto-reconciliation also contributed to the variances which is highly regretted. The clean-up of system has been an on-going process and reflected in subsequent financial statements.

3375) The following discrepancies were noted between the figures in the financial statements and figures shown in the notes to the financial statements: -

Item Description	Financial state ment figure (Kes)	Notes to Financial Statements Figure (Kes)	Variance (Kes)
Accounts Payable	181,837,476	315,218,891	(133,381,415)
Use of goods and services	470,673,571	470,673,662 (Recasted)	(91)
Transfers to Other Government Units	1,951,724,100	1,951,440,250 (Recasted)	283,850

3376) The notes to the financial statements are system generated and at the time of the audit, the system had partially processed transactions that are now fully done. The on-going auto-reconciliation and clean-up of the system anomalies has also been continuous. These changes have been effected in the subsequent financial years' financial statements.

Committee Observations and Findings

3377) The Committee observed and found that:

1) The Committee observed that the explanation given by the Accounting Officer with regard to the variances between the financial statements and notes to the financial statements including casting errors was satisfactory; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3378) The Committee recommended that:

The matter be resolved.

1305. Unsupported Expenditure

1305.1 Use of Goods and Services

3379) The statement of receipts and payments reflects an expenditure of KSh.470,673,571 under use of goods and services which as disclosed at note 3 to the financial statements includes an amount KSh.59,330,844 incurred on rentals of produced assets. However, out of the later balance of KSh.59,330,844, an amount of KSh.15,331,647 was not supported with payment vouchers and other necessary documents.

3380) Further, included in the total expenditure of KSh.470,673,571 under use of goods and services is an amount totaling KSh.29,841,959 incurred in regional offices. The expenditure of KSh.29,841,959 though captured in the ledger was however not supported by expenditure returns from the regional offices.

3381) In addition, review of Authority to Incur Expenditure (A.I.E's) revealed that out of the KSh.42,930,144 disbursed to regional offices, only KSh.29,841,959 was captured in the ledger leaving a balance of KSh.13,088,185 un-accounted for resulting in understatement of use of goods and services expenditure by the KSh.13,088,185. In the circumstances, the accuracy of use of goods and services expenditure of KSh.470,673,571 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3382) The Accounting Officer submitted that it was true that payment vouchers of Kes.15,331,646.80 were not availed during the audit. The vouchers are normally filed in files for leases and availed to the auditor from the lease file per Landlord for verification by the auditors.

3383) It was also true that included in the total expenditure of Kes.470,673,571 under use of goods and services is an amount totaling Kes.29,841,959 incurred in regional offices. The expenditure returns to support the regional AIEs were collected from the regional offices and have been added to the ledgers then availed to the auditor for verification. The understatement of use of goods by Kes.13,088,185 has now been corrected and to be reported in the subsequent financial statements.

Committee Observations and Findings

3384) The Committee observed and found that:

1) The Committee observed that the Accounting Officer had not put in place any measures to ensure that only accurate financial records were presented for audit review;
2) The Committee also observed that the Accounting Officer had not taken any steps to ensure all expenditure was fully supported before payment was effected;
3) The Committee however, observed that the payment vouchers and expenditure returns to support the regional AIEs had been availed, reviewed and verified; and
4) The Committee marked the matter as resolved.

Committee Recommendations

3385) The Committee recommended that:

1) The matter be resolved.

1305.2 Compensation of Employees

3386) The statement of receipts and payments reflect an expenditure balance of KSh.1,011,528,083 in respect of compensation of employees while Integrated Payroll and Personnel Database (IPPD) reports and payment vouchers availed reflected a total of KSh.1,142,432,220 resulting in un-explained difference of KSh.130,904,137. In the circumstances, the accuracy of compensation of employees' expenditure of KSh.1,011,528,083 for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3387) The Accounting Officer submitted that it was true that there was un-explained difference of Kes.130,904,137 as compensation to employees. The difference of the amount occurred due to partial delinking of;

i. Business Registration Services had one-line budget and their salaries was being paid as a transfer (grant) to SAGA, they have now delinked.
ii. There were twelve (12) officers in NALEAP who had short-term contracts and we are in the process of regularizing their terms and conditions of service. We have requested the DPSM to issue them with personal and the process has not been finalized.
iii. This office has already included two (2) staff IN NACCSC into IPPD payroll following issuance of their personal numbers. The remaining one (1) officer personal number is in the process of reactivated by DPSM.

3388) In this regard, all efforts were being made through DPSM to finalize the processes which sometimes take longer than expected.

Committee Observations and Findings

3389) The Committee observed and found that:

1) The Committee observed that the Accounting Officer had not put in place any measures to ensure that all salary payments are effected through the Integrated Payroll and Personnel Database (IPPD) system;
2) The Committee however, observed that the analysis of the expenditure had been availed and were reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3390) The Committee recommended that:

The matter be resolved.

1305.3 Acquisition of Assets

3391) The statement of receipts and payments reflects expenditure on acquisition of assets totaling to KSh.5,279,049. However, supporting documents for the expenditure amounting to KSh.5,279,049 was not availed for audit verification. Under the circumstances, it has not been possible to confirm the propriety, accuracy and completeness of acquisition of assets figure of KSh.5,279,049 for the year ended 30 June 2018.

Submission by the Accounting Officer

3392) The Accounting Officer submitted that it was true that the payment vouchers and supporting documents on acquisition of assets totaling to Kes.5,279,049 were not provided during the audit. The office traced them and are now availed for audit review.

Committee Observations and Findings

3393) The Committee observed and found that:

1) The Committee observed that the Accounting Officer had not put in place any measures to ensure all documents required for audit are provided in a timely manner;
2) The Committee however, observed that the payments documents were later provided and were reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3394) The Committee recommended that:

The matter be resolved.

1306. Bank Balances

1306.1 Recurrent Cash book

3395) The statement of assets and liabilities reflects bank balance of KSh.331,029,439 which include KSh.4,095,482 under recurrent cash book. However, a review of the cash book revealed that the closing balance of KSh.140,089,488 as at 30 June 2017 was not carried forward to 2017/2018 financial year.

3396) Further, the recurrent bank reconciliation statement reflects payments in the cash book not in bank statement (unpresented cheques) totaling KSh.110,052,357 out of which cheques totaling KSh.11,720,224 were stale as at 30 June 2018 and had not been reversed in the cash book. No justification was provided by the management for failure to reverse the same.

3397) In addition, the recurrent bank reconciliation statement also reflects receipts in bank statement not in cash book totaling KSh.8,233,656 which remained uncleared as at 30 June 2018. Further, the reconciliation statement reflects payments in bank statement not recorded in cash book totaling to KSh.28,002,636 and receipts in cash book not recorded in bank statement totaling to KSh.6,282,241 both of which the clearance status as at 28 February 2019 had not been disclosed.

Submission by the Accounting Officer

3398) The Accounting Officer submitted that: -

i. It was true the recurrent closing bank balance of Kes.140,089,488 in FY 2016/2017 was not carried forward in the subsequent year FY2017/18. We have reviewed the balances in the recurrent cashbook for FY2018/19 to accommodate the closing balances omitted. The cashbook has been availed to auditors for review.

ii. It was true there were payments in the cashbook not in bank statement amounting to Kes.110,052,357 and cheques amounting to Kes. 11,720,224 presumed to be stale. This was cleared after conducting proper manual and bank auto-reconciliation and availed to auditors for review.

iii. It was true that we had not fully posted Kes.36,236,292 made up of Kes. 8,233,656 and Kes. 28, 002,636 in the cash book which has now been posted. The figure of Kes.6,282,241 were direct credits which have now been receipted and cleared from the subsequent bank reconciliation and availed to auditors for review.

Committee Observations and Findings

3399) The Committee observed and found that:

1) The Committee observed that the Accounting Officer had not put in place any measures to ensure all accounting documents are updated regularly;
2) The Committee however, observed that the revised and updated reconciliation statements were later provided and were reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3400) The Committee recommended that:

The matter be resolved.

1306.2 Development Cash book

3401) The statement of assets and liabilities reflects bank balance of KSh.331,029,439 which include a bank balance of KSh.11,715,065 under development bank account which differ with the reconciled cash book balance of KSh.10,392,823 resulting in un-explained difference of KSh.1,322,242.

3402) Further, the development bank reconciliation statement reflects payments in the cash book not reflected in the bank statement (unpresented cheques) totaling KSh.2,556,443 all of which were stale as at 30 June 2018 and had not been reversed in the cash book. In addition, the reconciliation statement reflects payments in bank statement not recorded in cash book totaling to KSh.1,234,200 for which clearance status as at 28th February 2019 was not disclosed.

Submission by the Accounting Officer

3403) The Accounting Officer submitted that it was true that the statement of assets and liabilities reflects bank balance of Ksh.331,029,439 which include a bank balance of Ksh.11,715,065 under development bank account which differ with the reconciled cash book balance of Ksh.10,392,823 resulting in un-explained difference of Ksh.1,322,242. The explanation to using bank balance instead of reconciled cash book balance is because the payments in cashbook not in bank statements had not been processed and cleared. This has now been processed and cleared making the balances agree.

3404) The development bank reconciliation statement reflects payments in the cash book not reflected in the bank statement (unpresented cheques) totaling Ksh.2,556,443 all of which were stale as at 30 June 2018 and had not been reversed in the cash book. The reversals were done and correctly reflected in the next financial year. The reconciliation statement reflects payments in bank statement not recorded in cash book totaling to Ksh.1,234,200 for which clearance status as at 28 February 2019 was not disclosed. The payments were expenditures not yet posted in cashbook which have now been recorded and availed to auditors for review.

Committee Observations and Findings

3405) The Committee observed and found that:

1) The Committee observed that the Accounting Officer had not put in place any measures to ensure all accounting documents are updated promptly;
2) The Committee however, observed that the Copies of cashbook extracts where money was posted were later provided and were reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3406) The Committee recommended that:

The matter be resolved.

1306.3 Deposits Cash book

3407) The statement of assets and liabilities reflects bank balance of KSh.331,029,439 which include a deposit bank balance of KSh.315,218,891 that differed with the reconciled cash book balance of KSh.343,925,416 resulting in un-explained difference of KSh.28,706,525.

3408) Further, the deposit bank reconciliation statement reflects payments in the cash book not in the bank statement totaling KSh.368,852 and receipts in cash book not recorded in bank statement totaling KSh.29,073,488 for which clearance status as at 28 February 2019 was not disclosed.

3409) A review of the deposits cash book revealed that payments totaling KSh.420,506,285 were made from the deposits account through various Payment Authorities (PA's). However, although the management explained that the payments related to legal fees paid to international firms for handling international cases on behalf of the Government, details on how the law firms were procured and their fees determined were not provided for audit review. In addition, out of the total payments of KSh.420,506,285, only Payment Authorities (PA's) amounting to KSh.25,703,123 were availed for audit verification, leaving a balance of KSh.394,803,162 unsupported.

3410) In the circumstances, the validity, accuracy and completeness of the bank balance of KSh.331,029,439 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3411) The Accounting Officer submitted that it was true that we used the bank balance instead of the reconciled cashbook balance because there were no properly prepared bank reconciliations. The Kes.28,706,525 unexplained balance was cleared in the subsequent financial years through the bank reconciliations done after financial statements had been presented.

3412) The un-reconciled items amounting to Kes.29,073,488 were due to the deposit bank reconciliation statement reflecting payments in the cash book not in the bank statement totaling Kes.368,852 and receipts in cash book not recorded in bank statement. These belongs to previous years as unexplained balances that have now been cleared.

3413) It was also true that payments amounting to Kes.420,506,285 were made from the deposits bank account through various Payment Authorities (PA's) to various lawyers representing Kenya in external cases. Only Payment Authorities (PA's) amounting to Kes.25,703,123 were availed for audit verification, leaving a balance of Kes.394,803,162 unsupported. The PAs have now been attached to the Payment Vouchers and availed to the auditors with no balance remaining unsupported. Further to that:

i. Procurement of the external Counsel was done with due consideration and compliance with the Procurement and Disposal Act (PPDA) and the Office of the Attorney General Act (OAGA) No.49 of 2012.
ii. Section 74(3) of PPOA provides as follows:
    a. *A procuring entity may use direct procurement if the following are satisfied-*
    b. *There is an urgent need for the goods, works or services being procured;*
    c. *Because of the urgency the other available methods of procurement are impractical; and*
    d. *The circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity.*
iii. Section 76(1) further provides that: -
    a. *A procuring entity may use a request for proposals for a procurement if-*
    b. *The procurement is of services for a combination of goods and services; and*
    c. *The services to be procured are advisory or otherwise of a predominately intellectual nature.*
iv. Of significance is Section 76(2) which provides that-
    a. *(2) Subject to any prescribed restrictions, a procuring entity may use a request for proposals for a procurement if the procuring entity would be allowed to use another alternative procurement procedure for that procurement under section 73 (Restricted Tendering), 74 (Direct Procurement), 88 (Request for Quotations) or 90.*

3414) Given the urgency and sensitivity of the cases when they arose, especially as it touches on the territorial integrity and sovereignty of the Republic of Kenya, the selection of the external Counsel had to be accorded expediency and with the consideration of the provisions of the PPDA and the OAGA respectively.

3415) To this end, the Office of the Attorney General received proposals from various Counsels and international law firms including the firm of Squire Patton Boggs, Prof. Phoebe Okawa, Judge Abdul Koroma; Prof. Payam Akhavan and the current core legal team. These proposals were analyzed based on the skills, expertise and experience in maritime delimitation disputes.

3416) The Office of the Attorney General settled for Prof. Payam and the members of his legal team and appointed them on account of their extensive experience and expertise in Maritime disputes before the International Court of Justice.

3417) In addition the Office successfully negotiated highly discounted rates with the external Counsel, a fact that can be ascertained when compared to other international counsels in the market some of who gave their quotations and demonstrated that in fact, they did not have the requisite experience before the ICJ as evidenced by the process and pricing that they outlined for the hearing. It is a fact that the Government of Kenya obtained value for its money.

3418) The external legal team comprises:

a) **Core Team**: Professor Payam who is assisted by Prof. Philippa Webb, Prof. Erick Bjorge, Ms. Patricia Kwast, Ms. Caroline Balme and one or two other counsel who assist with the management of the case.

b) **Subject Experts**: this comprise – Ms. Amy Sander, Prof. Alan Boyle, Prof. Vaughan Lowe, Prof Forteau and Dr. Robin Cleverly. This team has been working under the directions of the lead Counsel Pro. Payam in preparing the Preliminary Objection, Counter |Memorial, and submissions for oral hearing schedule for September 2019.

3419) The Office found it prudent to separate the different phases of the Engagement due to the uncertainty of whether or not the Court would rule in our favour on the Preliminary Objection, which would then have obviated the need to retain the Counsel.

3420) The same team has been maintained to date due to their deep understanding of the case and also given the sensitivity and the nature of the case that requires a great measure of confidentiality as it touches on the territorial integrity and sovereignty of the Republic of Kenya. Further, the practice of the Court show that States often maintain the composition of Counsel who prepared the written pleadings right through to the oral proceedings.

Analysis

3421) The Office of the Attorney General is mandated under the Office of the Attorney General Act No. 49 of 2012 to represent the Government in matters before foreign courts and tribunals. This means that the Attorney General has conduct of all international arbitrations and litigation matters.

3422) Further, section 25(2) gives power to the Attorney General to procure the services of such other persons as may be reasonably necessary for the purposes of assisting in the performance of his functions.

3423) The Office therefore procured the services of the external legal team in accordance with sections 17 and 25 of the Office of the Attorney General Act, as subsequently reflected in Circular Ref.AG/CONF/6/D/144 VOL.II of 6th April 2017 that states:

- "No Ministry or Department shall engage the services relating to the functions of the Attorney General without approval of the Attorney General".

3424) It should be noted and appreciated that maritime disputes require legal counsel with vast experience in handling maritime matters both at the International Tribunal on LAW OF THE Sea (ITLOS) and the International Court of Justice (ICI). Further, the lawyers must be proficient in both English and French languages, because the presentations before the Court must be in both French and English.

3425) The External Counsels were therefore appointed to represent the Republic of Kenya in coordination with the Kenya International Boundaries Office (KIBO) and the counsels from the Office of the Attorney General. The team has assisted in building capacity at the Office of the Attorney General since none of the State Counsel had prior to that occasion, had the opportunity to represent the Republic of Kenya before the International Court of Justice.

Committee Recommendations

3426) The Committee observed and found that:

1) The Committee observed that the Accounting Officer failed to provide the Payment Authorities on the validity, accuracy and completeness of the bank balance of KSh.331,029,439 as at 30 June 2018;
2) The Committee however, observed that the Payment Authorities on the validity, accuracy and completeness of the bank balance of KSh.331,029,439 as at 30 June 2018 were later provided and were reviewed and verified; and
3) The Committee marked the matter as resolved.

1307. Outstanding Impressts

3427) The statement of assets and liabilities reflects accounts receivable balance of KSh.5,894,960, being outstanding impressts which ought to have been surrendered or accounted for on or before 30 June 2018. This is contrary to Section 93 (5) of the Public Finance Management (National Government) Regulations, 2015.

3428) In the circumstance, the Office is in breach of the law and the, recoverability of the outstanding imprest balance of KSh.5,894,960 as at 30 June 2018 could not be ascertained.

Submission by the Accounting Officer

3429) The Accounting Officer submitted that it was true that outstanding imprest of Kes.5,894,960 reflected in the financial statement. This is due to surrenders done manually awaiting IFMIS clearance where enough funds were not available due to budget-cuts. A reconciliation for the variance is available for verification of data in the IFMIS and manual registers. Measures have been taken to prevent the long outstanding imprests. Long outstanding imprest are recovered from salaries in case of exceeding 7 days after the specific activity.

Committee Observations and findings

3430) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not taken any measures to expedite the process of clearance of surrendered imprest/recovery;
2) The Committee however, observed that the analysis of the surrenders done manually were later provided and were reviewed and verified; and
3) The Committee marked the matter as resolved.

1308. Pending Bills

3431) As disclosed at note 14.1 and Annex 1 to the financial statements, the Office of the Attorney General and Department of Justice reported total pending bills of KSh.411,771,557 as at 30 June 2018, which were not settled but were carried forward to 2018/2019. Had the bills been paid and the expenditure charged to the respective accounts in 2017/2018, the statement of receipts and payments for the year would have reflected a deficit of KSh.411,758,218 instead of the reflected surplus of KSh.13,339 for the year ended 30 June 2018.

Submission by the Accounting Officer

3432) The Accounting Officer submitted that it was true that the financial statements reported Kes.411,771,557 as pending bills for FY17/18 occasioned by lack of exchequer releases and budget-cuts. However, after verification by pending bills committee and audit by Internal Auditors this amount of pending bills reduced to Kes.188,499,199.30 as at start of FY18/19. The pending bills reports to National Treasury and subsequent financial statements now reflect the correct balances of pending bills.

Committee Observations and findings

3433) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not taken any measures to avoid accumulation of pending Bills;
2) The Committee however, observed that the pending bills report from National Treasury and subsequent financial statements which reflect the correct balances of pending bills were later provided and were reviewed and verified; and
3) The Committee marked the matter as resolved.

Other Matters

1309. Budgetary Performance

3434) During the financial year ended 30 June 2018, the Office of the Attorney General and Department of Justice received exchequer releases totaling KSh.3,440,331,860 against estimated receipts of KSh.4,667,737,965 resulting in a shortfall of KSh.1,227,406,105 equivalent to 26% of the total budget. Further, actual expenditure for the year amounted to KSh.3,440,318,521 against a budget of KSh.4,667,737,965 resulting in under expenditure of KSh.1,227,419,444 or 26%.

3435) The under expenditure occurred in all expense components. The management has attributed the under expenditure to non-release of all exchequer allocations by the National Treasury which impacted negatively on service delivery.

Submission by the Accounting Officer

3436) The Accounting Officer submitted that the under expenditure occurred mainly under use of goods and services, transfers to other government units and acquisition of assets as follows:

Expense Item	Final Budget Ksh.	Actual Expenditure Ksh.	Under-expenditure Ksh.
Compensation to Employees	1,041,170,000	1,011,528,083	29,641,917
Use of Goods and Services	994,011,520	470,673,571	523,337,949
Transfer to Other Government Units	2,465,652,000	1,951,724,100	513,927,900
Other Grants and Transfers	6,553,862	-	6,553,862
Social Security Benefits	2,800,000	1,113,718	1,686,282
Acquisition of Assets	157,550,583	5,279,049	152,271,534
Total	**4,667,737,965**	**3,440,318,521**	**1,227,419,444**

3437) It was true that we were not able to utilize all the budgetary allocation as approved by Parliament because of lack of exchequer releases and procurement of goods and services was closed before 31st May 2018 i.e. 21.05.2018. This led to under absorption of the budgetary allocation for the financial year 2017/2018.

Committee Observations and findings

3438) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has put in place stringent measures to ensure full budget absorption to ensure uninterrupted service delivery to the citizens;
2) The Committee also observed that the under absorption persisted in 2018/2019 financial year; and
3) The matter was for the Committee to note.

Committee Recommendations

3439) The Committee recommended that:

The matter be resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1310. Irregular Payment of Un-taxed Airtime Allowances

3440) The accounting officer paid untaxed allowances to staff amounting to KSh.3,440,000 during the financial year 2017/2018 instead of procuring the cards and issuing out. This is contrary to Office of the President circular OP/Cab / 15 of 5 March 2010 on Economic Utilization and efficient delivery of telephone services in the public sector and letter 1005/2 from Kenya Revenue Authority dated 22 August 2012. Further, there was no list prepared showing how the allowances were paid per officer in accordance with the ceilings set by the circular. Consequently, management was in breach of the above guidelines.

Submission by the Accounting Officer

3441) The Accounting Officer submitted that it was true an amount of Kes.3,667,500 was paid to staff untaxed. The total allowance paid per staff did not exceed Kes.36,000 p.a. Thus, not taxable as per the law. The staff were paid and made to sign a payment schedule for amount received in cash for the first quarter only of the financial year. Schedules have been availed for audit verifications. He confirm that the cash payment system is no longer being used. The office procures cards and taxes on any excess of Kes.36,000 p.a. and are issued as per the regulations provided.

Committee Observations and findings

3442) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure all allowances are taxed according to the law;
2) The Committee also observed that the under absorption persisted in 2018/2019 financial year; and
3) The matter was for the Committee to note.

1311. Transfers to Other Government Entities

3443) Note 4 to the financial statements indicates that a total of KSh.1,951,440,250 was transferred to ten (10) entities. However, confirmations from the beneficiary institutions as at 30 June 2018 were not attached as appendices to the financial statements contrary to the Public Sector Accounting Standards Board requirement contained in the revised reporting template dated 30 June 2018 that require duly signed confirmations to be obtained from the beneficiary institutions. No explanation has been provided for the omission.

Submission by the Accounting Officer

3444) The Accounting Officer submitted that it was true that Note 4 to the financial statements indicates that a total of Kes.1,951,724,100 was transferred to ten (10) entities as detailed below:

Institution	Amount Transferred (Kes)	Amount Confirmed (Kes)	Un-confirmed Balance (Kes)
Kenya Law Reform Commission	330,700,000	0	330,700,000
Anti-Corruption Steering Committee-	114,082,678	0	114,082,678
National Crime Research Centre	162,700,000	0	162,700,000
Council of Legal Education	260,200,000	0	260,200,000
Kenya School of Law	290,700,000	0	290,700,000
Judges and Magistrate Vetting Board	28,443,007	0	28,443,007
Kenya Copyright Board	132,042,000	0	132,042,000
National Centre for International Arbitration	122,700,000	0	122,700,000
Asset Recovery Agency	210,700,000	0	210,700,000
Registrar Companies	299,172,565	0	299,172,565
Total	1,951,724,100	0	1,951,724,100

3445) It was also true that transfers of Kes.1,055,350 captured in ledgers was not supported by confirmation by the recipients. The transfers relate to SAGAs that were still domiciled in OAG&DOJ in the FY17/18. Thus, these are not actual transfers through remittance to their bank accounts, but expenditure incurred by OAG&DOJ on behalf of the new SAGAs. The rest of the SAGAs were requested to confirm and even continue to confirm once they receive the transfers.

Committee Observations and findings

3446) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure prompt and timely provision of documents required for audit;
2) The Committee however, observed that the documents were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3447) The Committee recommended that:

The matter be resolved.

REPORT ON EFFECIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1312. Lack of an Audit Committee

3448) In 2017/2018 financial year, the Office of the Attorney General and Department of Justice did not have an independent audit committee as required by Section 73(5) of the Public Finance Management Act, 2012. In the absence of a functioning audit committee, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements among other functions of an audit committee did not occur which may have affected good corporate governance at the Office.

Submission by the Accounting Officer

3449) The Accounting Officer submitted that pursuant to the Audit recommendations relating to PFM Regulations 165, the Office of the Attorney General and Department of Justice appointed a Ministerial Audit Committee to recruit the Audit Committee members. The process went through shortlisting and the interviews conducted as scheduled on the 3rd week of January 2020. We undertook to have the Committee in place by February 2020. This has been realized and the audit committee is in place.

Committee Observations and findings

3450) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has put in place the audit Committee and provided letters of appointment of the same were reviewed and verified; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3451) The Committee recommended that:

The matter be resolved.

1313. Lack of well Documented Enterprise Wide Risk Management Process and IT Strategic Committee

3452) During the year under review, the Office of the Attorney General and Department of Justice did not have a well-documented enterprise wide risk management process and policies in place to effectively guide the enterprises risk management processes at large. This is contrary to the Public Finance Management regulations, 2015. The Office also did not have an IT strategic committee, an IT strategic plan that supports business requirements and ensures that IT spending remains within the approved IT strategic plan, formally approved IT security policy to ensure data confidentiality, integrity and availability, formal documented and tested emergency procedures, copies of the IT continuity plan and disaster recovery plan kept off-site and no backups stored in a secure off site location.

Submission by the Accounting Officer

3453) The Accounting Officer submitted that true that OAG & DOJ does not have an approved ICT Strategic Plan and Policies. The ICT Unit had adopted and implemented strategy 13.7 of the OAG & DOJ Strategic Plan. Due to the inadequacy of the strategy, the Unit saw it fit to develop an OAG & DOJ ICT Strategy. The ICT Unit also developed ICT policies to standardize its operations. The Strategy and policies were circulated to the OAG & DOJ heads of departments for review and implementation.

3454) The Accounting Officer constituted the ICT Steering committee. In addition the office is implementing the Quality Management System (ISO 27001) with regard to Information Security System. He are currently using the ICT Ministry Policies on Anti-Virus and OAG & DOJ has requested the Ministry of Information and Communications Technology (MOICT) to procure anti-virus software. We are also in the process of digitization and the back-ups storage off-site will be factored.

Committee Observations and Findings

3455) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has put in place measures including Risk Management Committee and development of policies to ensure proper operations of the department;
2) The Committee also observed that the performance contracts have existed at the Department with the one coming up being the 17th one;
3) The Committee further observed that the ICT Strategy developed by the Department was in line with the bigger Strategic Plan for the Department; and
4) The Committee marked the matter as resolved.

Committee Recommendations

3456) The Committee recommended that:

The matter be resolved.

STATE LAW OFFICE AND DEPARTMENT OF JUSTICE – OFFICIAL RECEIVER

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1314. Inaccuracies in the Financial Statements

1314.1 Comparative Figures

3457) The financial statements availed for audit review reflected variances KSh.9,993,623 between comparative figures in the statement of assets and liabilities and comparative figures in the notes to the financial statements. The differences totaling KSh.9,993,623 have not been explained or reconciled.

Submission by the Accounting Officer

3458) The Accounting Officer submitted that it was true that the financial statements availed for audit review reflected variances Kes.9,993,623 between comparative figures in the statement of assets and liabilities and comparative figures in the notes to the financial statements, the observations sighted comprised of the following;

Item Description	**Figures reflected in the financial statement of assets and liabilities for the year 2016/2017 (Ksh)**	**Comparative Figures reflected in the Financial statements for the year 2017/2018 (Ksh)**	**Difference (Ksh)**
Bank Balance	27,264,339	27,607,962	(343,623)
Cash Equivalents – short term deposits and treasury bills	274,403,802	284,053,802	(9,650,000)
Total	**301,668,141**	**311,661,764**	**9,993,623**

3459) The comparative figure for the year 2016/2017 in both bank balance and short term deposits were wrongly stated as a result of an omission of cash at bank in Mombasa office Current Accounts for both Bankruptcy Estate Fund and Company Liquidation of Kes.240,086 and Kes.113,535 giving a variance of Kes.343,623. It is regrettable that this was not disclosed as notes to the financial statements.

3460) Under cash and cash equivalents- short term deposits and treasury bills, there was an omission of fixed deposits in Mombasa office of Kes.1,800,000 and Kes.850,000 and a further omission of Kes.7,000,000 in Kisumu office giving a variance of Kes.9,650,000. It is regrettable that this was also not disclosed as notes to the financial statements. However, during the preparation of financial statement for the FY ended 30th June 2018 all the omissions were corrected to accommodate the actual figures.

Committee Observations and Findings

3461) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure prompt and timely provision of documents required for audit;
2) The Committee however, observed that the documents were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3462) The Committee recommended that:

The matter be resolved.

1314.2 Casting Error

3463) The statement of assets and liabilities as at 30 June 2018 reflects total cash and cash equivalents balance of KSh.327,126,251 made up of bank balance of KSh.57,187,550 and cash equivalent (short term deposits and treasury bills) balance of KSh.269,939,201 which amounted to KSh.327,126,751 resulting in a casting error of KSh.500. In addition, the comparative figure of total financial assets in the statement of assets and liabilities cast to KSh.427,094,984 but not KSh.438,326,315 as reflected resulting in a casting error of KSh.11,231,331. No explanation was provided for these casting errors.

Submission by the Accounting Officer

3464) The Accounting Officer submitted that it was true there was a presumed casting error due to typing of Kes.327,126,251 instead of Kes.327,126,751 resulting to a Kes.500 difference. This was not a casting error but a typing error and which has since been corrected and availed for scrutiny to auditors.

3465) It was also true in the reported statement of assets and liabilities for the financial year ending 30th June 2017, the reported fund balance was understated due to errors and omissions of Kes.11,231,331 which were detected during the preparation of financial statements relating 2017/2018 and corrected accordingly. It is regrettable that this was not disclosed as notes to the financial statements. However, during the preparation of financial statement for the FY ended 30th June 2018 all the omissions were corrected to accommodate the actual figures. *(Annex 11)*

Committee Observations and Findings

3466) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure prompt and timely provision of documents required for audit;

2) The Committee however, observed that the documents were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3467) The Committee recommended that:
The matter be resolved.

1314.3 Statement of Cash Flows

3468) The statement of cash flow reflects cash and cash equivalent balance at the end of the year of KSh.452,553,594 which differ with the balance reflected in the statement of assets and liabilities of KSh.327,126,251 resulting in a difference of KSh.125,427,343 which was not explained or reconciled. In the circumstances, the accuracy of the statement of cash flows for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3469) The Accounting Officer submitted that it was true the statement of cash flow reflects cash and cash equivalent balance at the end of the year of Kes.452,553,594 which differ with the balance reflected in the statement of assets and liabilities of Kes.327,126,251 resulting into a difference of Kes.125,427,343. A figure of Kes.125, 427,343 pointed out by the auditor relates to Kes.125,426,843 which are receivables from Deposits Protection Fund Board and Consolidated Bank and a balance of Kes.500 that was a typing error as explained in 1314.2 above. It is regrettable that Kes.125,426,343 was not included in the financial statements and will be disclosed in subsequent financial year statements.

Committee Observations and Findings

3470) The Committee observed and found that:
1) The Committee observed that the Accounting Officer has not put in place any measures to ensure prompt and timely provision of documents required for audit;
2) The Committee however, observed that the documents were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3471) The Committee recommended that:
The matter be resolved.

1315. Receivables

3472) The statement of assets and liabilities reflects receivables balance of KSh.125,426,843 as at 30 June 2018. As disclosed at note 11 to the financial statements, the receivables balance is made up of KSh.77,144,260 due from a commercial bank and KSh.48,282,583 due from Deposit Protection Fund Board. However, confirmation certificate from the Deposit

Protection Fund Board was dated 7 September 2013 and the one from the Bank was dated 3 June 2009. The management did not explain why confirmation certificates as at 30 June 2018 were not availed for audit verification.

3473) In the circumstances, the accuracy and completeness of the receivables balance of KSh.125,426,843 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3474) The Accounting Officer submitted that it was true during the audit the management did not provide the auditors with confirmation certificates as at 30 June 2018, but they provided confirmation certificates from consolidated bank dated 3rd June 2009 for Kes.77,144,260 and Kes.48,282,583 from Deposit Protection fund Board dated 7th September 2013 because these deposits were managed by the Central Bank of Kenya on behalf of official receiver. The certificates of balances were sought in the financial year 2018/2019 which included the principal amounts originally reflected in the statements and interest earned over the period.

Committee Observations and Findings

3475) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure prompt and timely provision of documents required for audit;
2) The Committee however, observed that the confirmation certificates were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3476) The Committee recommended that:

The matter be resolved.

3477) The Committee observed that Paragraph 1316 to 1317 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

THE REVENUE STATEMENT – STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1318. Inaccuracies in the Financial Statements

3478) A review of the financial statements availed for audit indicated that the comparative balances were at variance with the previous year's audited financial statements as summarized below;

Item	2017/2018 Comparative Figure Ksh.	2016/2017 Audited Figure Ksh.	Difference Ksh.
Fees on use of goods and servic	584,814,308	585,063,916	(249,608)
Transfers to Exchequer	453,484,622	531,547,618	(78,062,996)

3479) In the circumstances, the accuracy of comparative balances could not be confirmed for the year ended 30 June 2018.

Submission by the Accounting Officer

3480) The Accounting Officer submitted that it was true that the financial statements availed for audit review indicated comparative balances that were at variance with the previous year's audited financial statements. This was occasioned by continuous updates of the system by configuring new revenue items and removal of others after BRS separated. The differences were reported under the BRS financial reports. The comparative figures were the true reflection of the item and their respective amounts in the system. We regret the differences which will be disclosed in the subsequent financial statements.

Committee Observations and Findings

3481) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure prompt and timely revision and correction of financial statements before being presented for audit;
2) The Committee however, observed that the evidence of corrections in subsequent financial statements were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3482) The Committee recommended that:

The matter be resolved.

1319. Unsupported Balances

1319.1 Unremitted Revenue

3483) The statement of revenues and transfers reflects balance carried forward of KSh.188,505,997 as at 30 June 2018 which represents revenue collected but had not been transferred to the exchequer as at the close of the year. However, no bank confirmation certificate was availed to confirm that the funds were in existence as at 30 June 2018. Further, and as disclosed at note 4 to the statement of revenues and transfers, the balance carried forward of KSh.188,505,997 was made up of KSh.168,776,500 due from Huduma Centre, KSh.1,099,057 due from Public Trustee and KSh.18,630,440 due from Kenya Commercial Bank. However, and as reported in the previous year, no explanation was provided as to why revenue totaling KSh.188,505,997 was not remitted to the Exchequer as at 30 June 2018.

3484) In the circumstances, the accuracy and completeness of the balance carried forward of KSh.188, 505,997 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3485) The Accounting Officer submitted that it was true that Note 4 to the statement of revenues and transfers reflects a balance carried forward of Kes.188,505,998 made up of Kes.168,776,500 due from Huduma Centre, Kes.1,099,057 due from Public Trustee and Kes.18,630,998 due from Kenya Commercial Bank.

3486) The Accounting Officer has been analyzing and reconciling the balances in deposit account to establish the actual and true position to remit Kes.1,099,057 to exchequer. This has been addressed through a committee formed by the Accounting Officer. The committee found the money to have been deposited on 8th August 2015 and all efforts are being made to ensure we remit the funds to exchequer. Kes.18,630,998 due from Kenya Commercial Bank have now been remitted to exchequer and reflected in the subsequent financial year. We regret the delay occasioned by having to write a letter to transfer the funds instead of using a standing order that is more expensive for an account that is meant to collect revenue and no expenses or reversals allowed. Kes.168,776,500 due from Huduma Centre is still pending and all efforts have been undertaken to acquire the funds. The Postal Corporation of Kenya has vide its letter Ref. No. DF/5260/PMG/03/04/17 of 4th April 2017 acknowledged owing this Office the unremitted revenue. This matter was escalated to the Principal Secretary – The National Treasury who in his letter Ref. No. AG/CONF/7/01/VI/TY of 23rd January 2018 is handling the matter directly with the Postal Corporation of Kenya.

3487) Further the unremitted revenue from Postal Corporation of Kenya was to be transferred to Central Bank of Kenya (CBK) revenue collection account as directed by PAC on 26.02.2019. This is yet to be done. The Committee marked the matter as resolved**.**

<u>The matter was discussed in the Report of 2016/2017</u>

1319.2 Balance Brought Forward

3488) The statement of revenues and transfers availed for audit review indicated that balance brought forward from the previous year was KSh.264,269,237. However, the audited comparative amount for year 2016/2017 indicate a balance of KSh.217,838,420 as carried forward to year 2017/2018 resulting in un-reconciled or explained variance of KSh.46,430,817. Consequently, the accuracy of the balance brought forward figure of KSh.264,269,237 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3489) The Accounting Officer submitted that it was true that the statement of revenues and transfers reflected balance brought forward of Kes. *264,269,237* which however differs with the balance carried forward as at 1 July 2017 of Kes.217,838,420 resulting in un-reconciled difference of Ksh. *46,430,817*. We have adjusted the balance carried forward to be Kes. 264,269,237 by note no. 3 to reflect the true position as per the revised financial statements. The explanations on the changes are as per the note 3 remarks column.

Committee Observations and Findings

3490) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure prompt and timely revision and correction of financial statements before being presented for audit;
2) The Committee however, observed that the evidence of corrections in subsequent financial statements were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3491) The Committee recommended that:

The matter be resolved.

1320. Revenue from Regional Offices

3492) Included in the revenue figure of KSh.173,630,814 for the year under review is KSh.55,260,019 or approximately 32% collected in regional offices. However, a summary of returns of the revenue collected from the regions was not availed for audit verification contrary to Section 65 (1) of Public Finance Management (National Government) Regulations, 2015. Further, no analysis of revenue collected from regional offices was availed.

In the circumstances, it was not possible to confirm completeness and accuracy of the revenue balance of KSh.55,260,019 collected in regional offices.

Submission by the Accounting Officer

3493) The Accounting Officer submitted that it was true that included in the revenue figure of Kes. 173,630,814 for the period under review is Kes. 55,260,019 or approximately 32% collected in regional offices. Two committees on both revenue analysis and field returns were formed to conduct analysis and reconciliation of the revenue collected from the regions. The returns on the revenue collected are available for audit review. The marriage section was identified as the main source of the regional revenue and a detailed analysis of the regional collections and evidence of banking including bank transaction numbers and deposit slips are available for audit review.

Committee Observations and Findings

3494) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure returns from the Regional Offices are prompt and timely provided during audit;
2) The Committee however, observed that the returns from the Regional Offices were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3495) The Committee recommended that:

The matter be resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for conclusion

1321. Non-Tax Revenue Receipts

3496) Note 1 to the revenue statement on non-tax revenues reflects actual revenue of KSh.173,630,814 against a revenue budget of KSh.539,325,842 resulting in under collection of KSh.365,695,028. However, the management did not provide explanations for the material differences between approved estimates and the actual revenue collected as required by Section 65(1)(c) of Public Finance Management (National Government) Regulations, 2015. Non-compliance with this requirement affects understandability of the revenue statement by the users.

Submission by the Accounting Officer

3497) The Accounting Officer submitted that it was true there was a big variance between the budgeted amount and actual amount of revenue collected. This is due to the delinking of the Business Registration Services where most of the revenue activities were based. The difference can be traced in the books of Business Registration Services, which is a SAGA.

Committee Observations and Findings

<u>The Committee observed that the matter was concluded and therefore resolved.</u>

1322. Bank Reconciliation Statements

3498) Bank reconciliation statements for two bank accounts where the revenue collected in cash was being banked were not availed for audit review. The Office of the Attorney General and Department of Justice was therefore in breach of Section 90 (1) of Public Finance Management (National Government) Regulations, 2015. No explanation has been provided for the omission. In the circumstances, management is in breach of the law.

Submission by the Accounting Officer

3499) The Accounting Officer submitted that it was true that bank reconciliation had not been prepared. However, a committee was constituted to prepare the prior year's bank reconciliations to be up to date. The exercise is now complete and bank reconciliations are now available for audit verification.

Committee Observations and Findings

3500) The Committee observed and found that:

The Committee observed that the matter was concluded and therefore resolved.

3501) The Committee observed that Paragraph 1323 effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

PUBLIC TRUSTEE OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1323. Deposits

3502) The statement of financial position as at 30 June 2018 reflects a deposits balance of KSh.122,400,000 which includes a balance of KSh.85,000,000 held in Imperial Bank Limited. However, information available indicate that Imperial Bank Limited was placed under receivership by the Central Bank of Kenya on 13 October 2015 and Kenya Deposit Insurance Corporation (KDIC) appointed the receivers. Additional information indicates that out of the deposits of KSh.85,000,000 held at Imperial Bank Limited, an amount of KSh.13,000,000 was recovered on 31 December 2018 leaving an outstanding balance of KSh.72,000,000 whose recoverability could not be ascertained as at 30 June 2018.

Submission by the Accounting Officer

3503) The Accounting Officer submitted that it was true that there is an outstanding balance of Kes.72,000,000, which the office has been pursuing and continues to pursue with the National Treasury for purposes of securing authority to open a bank account into which the Public Trustee fund should be paid, and Kenya Commercial which is the designated Agency/receiving bank for the purposes of opening a bank account.

3504) The Public Trustee wrote to the Receiver Manager of Imperial Bank on 19th March 2020 to make inquiries and seek clarifications on recovery of the balances. Public Trustee has reliably learnt from media reports that arrangements are under way to make further payments to depositors of Imperial Bank. In this regard the office is expecting a further payment of the deposit balance to be paid once the bank Account is opened with Kenya Commercial Bank**.**

The matter was discussed in the Report of 2016/2017

1324. Investments

3505) The statement of financial position reflects investments balance of KSh.253,660,000 as at 30 June 2018, which as disclosed at note 14 to the financial statements, include a balance of KSh.165,598,000 described as deposits in financial institutions under the management of Kenya Deposit Insurance Corporation (KIDC) and the Official Receiver. However, as reported in the previous year, no explanation was provided for failure to seek refund of these dormant deposits. In addition, the dormant deposits of KSh.165,598,000 include investments amounting to KSh.51,193,938 held in some three (3) institutions which were not supported by confirmations from the holding institution.

3506) Under the circumstances, the accuracy and completeness of investments balance of KSh.253,660,000 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3507) The Accounting Officer submitted that it was true that the statement of financial position reflects investments of Kes. 253,660,000 as at 30th June, 2018 out of which investments worth Kes. 51,193,938 were not supported by confirmations from the holding institution at the time of the audit. Public Trustee held deposits with various financial institutions which were placed under receivership in the late 1980's and 1990's and early 2000. In order to protect the interest of investors Central Bank placed them under Statutory Management of Deposit Protection Fund Board which was later succeeded by Kenya Deposit Insurance Corporation (KDIC), while others were placed under the management of Official Receiver and Provisional Liquidator.

3508) Public Trustee has held meetings with KDIC to pursue recovery of the deposits from institutions under their management. Proof of debts forms were filed for the purpose of consideration and payment of debts due to the Public Trustee.

3509) Public Trustee followed up unconfirmed deposits with KDIC vide a letter dated 22nd February 2019. KDIC confirmed in their response dated 11th March 2019 that Public Trustee held eight fixed deposits accounts with Pan African Credit and Finance Ltd. The communication also confirmed that the accounts were consolidated into two accounts of Kes. 18,454,298.90 and Kes. 6,454,067.30 which were fully paid.

3510) Public Trustee also vide letter dated 22nd February 2019 wrote to the Manager KDIC seeking confirmation and recovery of deposits due to the Public Trustee two other institutions. KDIC's response dated 8th April 2019, confirmed that the Public Trustee held fixed deposits amounting to Kes. 22,750,355.80 with Central Finance Ltd and Kes. 5,979,666.70 with Allied Credit Limited. The two institutions were wound up.

The matter was discussed in the Report of 2016/2017

1325. Cash and Cash Equivalents

3511) The statement of financial position reflects cash and cash equivalent balance of KSh.6,282,557,000 as at 30 June 2018. However, bank reconciliation statements for the various bank accounts reflects outstanding reconciling items whose clearance status as at the time of the audit in March 2019 was not disclosed as tabulated below;

Account	**Payments in Cash book not in Bank (unpresented Cheques) Ksh.**	**Receipts in Bank Statement not in Cash book Ksh.**	**Payments in Bank Statement not in Cash book Ksh.**	**Receipts in Cash book not in Bank Statement Ksh.**
Administration Account- Nairobi	21,403,403	50,192,662	-	64,870,241
Investment Account	-	-	-	427,152,354
Trust Estate Account	3,787,430	-	-	28,288,432
Sundry Expenses Account	-	-	-	267,848,848
Administration Account-Regional Offices (Sub-total)	66,376,856	59,699,435	847,555	16,767,155
Total	**91,567,689**	**109,892,097**	**847,555**	**804,927,030**

3512) No explanation was provided for failure to clear the outstanding reconciling items reflected in the bank reconciliation statements as at 30 June 2018. In the circumstances, the accuracy of cash and cash equivalent balance of KSh.6,282,557,000 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3513) The Accounting Officer submitted that it was true that bank reconciliation statement for the various bank accounts reflect outstanding unreconciling items whose clearance status as at the time of audit in March 2019 was not disclosed. Clearance of the unreconciling items status report has been provided and the data availed for further audit verification.

3514) The outstanding receipts represented estate funds received from various institutions for administration by Public Trustee. Receipting of funds require details of the deceased on account for which a file and a ledger card is opened. Some institutions deposit funds without providing names of the deceased, what payment is for and next of kin. Without this detailed material information, a receipt cannot be issued. Public Trustee wrote to the institutions to provide this information in order to facilitate opening of the files, receipting of the funds and opening of the ledger cards.

3515) The Payments in Bank Statement not in Cash book are direct debit charges by the bank that include money transfer charges which are accounted for as bank charges. This has since been cleared and posted in the cashbook. The outstanding receipts have since been cleared as indicated by the attached bank reconciliation statement and bank statement. The documents have been availed for audit verification.

Committee Observations and Findings

3516) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not put in place any measures to ensure revised reconciliation statements and schedule showing date of clearance/reversal are prompt and timely provided during audit;
2) The Committee however, observed that the revised reconciliation statements and schedule showing date of clearance/reversal were later provided, reviewed and verified; and
3) The Committee marked the matter as resolved.

Committee Recommendation

3517) The Committee recommended that:

This matter be resolved.

3518) The Committee observed that Paragraph 1327 to 1328 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

46.0. THE JUDICIARY

FINANCIAL STATEMENTS FOR VOTE 1271

Ms. Anne Amadi the Accounting Officer for the Judiciary (Vote 1271) appeared before the committee on 13th August 2020 and 19th August 2020 to adduce evidence on the Audited Financial Statements for the Judiciary (Vote 1271) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

Ms. Sharon Mwanyuli	-	Senior Resident Magistrate
Mr. David Rapando	-	Chief Finance Officer
Ms. Nancy Kanyago	-	Projects Manager
Mr. Wycliffe Wanga	-	Accounts Controller

Basis for Qualified Opinion

1329. Lack of Fixed Asset Register

3519) The statement of receipts and payment as at 30 June 2018 reflects KSh.608,853,469 in respect of acquisition of assets. However, the Judiciary does not maintain a fixed assets register and, only an inventory listing of assets without values was provided for audit review. Further, no summary of fixed assets register was included in the financial statements as required by the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).

3520) Under the circumstances, it was not been possible to confirm the ownership, existence, location, safety, valuation of fixed assets as at 30 June 2018.

Submission by the Accounting Officer

3521) The Accounting Officer submitted that it was true that at the time of audit the Judiciary had not finalized the preparation of the Asset Register. The Asset Register was later finalized within the year and was available for audit review. A summary of the Fixed Asset Register in the prescribed format was attached for perusal by the Committee.

Committee Observations and findings

3522) The Committee observed as follows—

1) The provided Fixed Asset register had no indication of the serial no or title number of the assets hence not conclusive and was therefore inconclusive.
2) There was need for the Auditor-General to verify existence of the assets upon provision of the missing information. that once missing information is updated, the existence of the assets shall be confirmed by the Auditor General.

3) A valuation reporthad not been provided in support of the value of land reflected in the Fixed Asset Register.
4) The Accounting Officer's failure to maintain a complete Fixed Asset Register was a dereliction of duty, and a contravention of Regulation 143(1) of the PFM (National Government) Regulations, 2015. The Committee also observed that the Accounting Officer allowed exposure of public assets to fraud in violation of Section 194(5) of the PFM Act, 2012.
5) The matter was therefore unresolved.

Committee Recommendation

3523) The Committee observed and found that:

The Accounting Officer should ensure that correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010, and section 68(2) (k) of the PFM Act, 2012.

1330. Unrecognized and Uncertified Contractors Expenditure

3524) During the year under review, the statement of receipts and payment as at 30 June 2018, reflected KSh.608,853,469 in respect of acquisition of assets, out of which KSh.182,855,299 relating to construction of buildings was paid. However, information available indicate that thirty nine (39) law courts construction contracts worth KSh.3,491,859,987 funded by the Government of Kenya awarded between 2013 and 2017 across the country have to date not been completed. Analysis of the project's status report provided by the Judiciary indicated that works valued at KSh.1,587,836,185.95 had been certified for payment, however, details of certificates issued and total amount paid for each of the projects were not made available for audit review.

3525) In the absence of works completion certificates and payment reconciliations, it was not possible to confirm that works/the contracts paid were works certified and were in accordance with the provisions of the signed contract agreements.

Submission by the Accounting Officer

3526) The Accounting Officer submitted that it was true that Judiciary had thirty-nine construction projects funded by the Government of Kenya at the tune of Kshs. 3,491,859,987 which were at different stages of completion. Out of these, five (5) projects (Iten Law Court, Supreme Court building Renovations, Nkubu Law Court, Hamisi Law Court and Kaloleni Law court) have since been completed and copies of their certificates of completion were attached for perusal by the Committee and the remaining thirty-four (34) are ongoing.

3527) The Judiciary project status report at the time reflected that certified works done were valued at Kshs 1,587,836,185.95 of which only Kshs 246,404,929.00 had not been paid as at the close of the Financial Year 2017/18 due budget cuts. This was disclosed in the Financial

Statements as pending bills. An updated Judiciary projects' status list was attached indicating the certified works, total amount paid and the status of the projects.

Committee Observations and findings

3528) The Committee observed as follows—

1) The Accounting Officer contravened Section 68 (2) (k) of the PFM Act, 2012 by submitting the work certificates and schedule of payments to the Auditor-General outside the prescribed timeline. ousubmittedut-of-time in contravention of Section 68 (2) of the PFM Act, 2012. The Committee also observed that the Accounting Officer did not provide any sttttt underlying justification for initiating construction of thirty-nine (39) courts across the Country.
2) The Accounting Officer contravened Section 9 (1) (e) of the Public Audit Act, 2015 by denying the Auditor-General unrestricted access to documents certificates and payments schedules for works.
3) The matter was therefore unresolved.

Committee Recommendation

3529) The Committee recommended that—

1) **The Accounting Officer should ensure that correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010, and section 68(2) (k) of the PFM Act, 2012; and**

2) **The Accounting Officer must at all times ensure compliance to the provisions of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.**

1331. Unsupported Tribunals Expenditure

3530) The statement of receipts and payments for the year ended 30 June 2018 reflects transfer to other Government entities of Kshs. 876, 890,288 disclosed under note 5 to the financial statements as relating to transfers to twenty-one (21) tribunals. However, no actual transfers to the entities was done but the funds were utilized at the Judiciary. Further, expenditure details for each of the tribunals were not made available for audit review.

3531) In the circumstances, the propriety and validity of the Kshs.876, 890,288 expenditures could not be ascertained.

Submission by the Accounting Officer

3532) The Accounting Officer submitted that it was true that under the Judiciary's budget Kshs 876,890,288 was categorized as transfers to other Government entities. Out of this amount, Kshs. 374,709,078 was transferred to state agencies which are governed by Boards and prepare independent financial statements as indicated in the table below.

	2017-18 Allocation Kshs.
NCLR	320,000,000
SCAT	54,709,078
Total Transfers	**374,709,078**

Copies of the financial statements for the two agencies were attached for perusal by the Committee.

3533) The balance of Kshs. 502,181,210 relates to expenditures for 19 tribunals which could not be transferred as they are not managed by Boards of Directors and do not prepare their own financial statements. This approved budget was erroneously categorized as "Transfers to Other Government Entities" by the National Treasury when they transferred the tribunals' budget to the Judiciary during the FY 2015/16. The budget was thus spent from the Judiciary's Headquarters. Therefore, the expenditures incurred by the tribunals were a proper charge on the public funds.

3534) The Judiciary engaged the National Treasury to regularize this anomaly. Attached is the CRJ's letter to National Treasury which was attached for perusal by the Committee**.** With effect from FY 2019/20 the Tribunal's budget has since been categorized as Operation & Maintenance (O&M) similar to other courts in the Judiciary. A summary of the expenditures per each tribunal is as shown in the table below

S.No.	**Institution**	**Expenditure**
	Auctioneers Licensing Board - ALB	20,000,000.00
	Business Premises Tribunal	33,965,735.10
	Competent Authority	10,648,451.40
	Competition Tribunal	32,072,108.00
	Co-operative Tribunal	53,418,692.20
	Education Appeals Tribunal	7,681,037.50
	Education Tribunal	8,958,471.00
	Energy Tribunal	10,605,558.00
	HIV & AIDS Tribunal	47,987,261.00
	Industrial Property Tribunal	15,275,886.00
	NCAJ	29,180,974.35
	National Environment Tribunal - NET	21,815,984.50
	Political Parties Disputes Tribunal	6,604,620.00
	Petition Committee –PPPDT	42,968,479.00
	Rent Restriction Tribunal	30,194,455.85
	Sports Dispute Tribunal	20,182,146.40
	Standards Tribunal	18,474,477.80
	Transport Appeals Licensing Board –	80,950,061.90

S.No.	Institution	Expenditure
	TLB	
	Witness Protection Appeals Tribunal	11,196,810.00
	Sub Total	**502,181,210.00**
	NCLR	320,000,000.00
	SCAT	54,709,078.00
	Sub Total	**374,709,078.00**
	Total Tribunal Expenses	**876,890,288.00**

The payment vouchers of all these expenditures by the tribunals were available for audit review.

Committee Observations and findings

3535) The Committee observed as follows—

1) The actual transfers to the tribunals are now being done and that the propriety and validity of the Kshs.876, 890,288 expenditures could now be ascertained.
2) The Judiciary failed to transfer funds to the 21 tribunals in time thereby undermining their operations. The expenditure details for the tribunals were belatedly availed for audit review.
3) Failure to provide expenditure details for the 21 tribunals and supporting documents, is an offence of financial misconduct as defined in Section 197 (1) (k) of the PFM Act, 2012.
4) The matter was therefore unresolved.

Committee Recommendation

3536) The Committee recommended that—

1) **The Accounting Officer should always ensure that tribunals expenditure details are provided in time in compliance with Section 68 (2) (b) of the PFM Act, No. 34 of 2015.**
2) **The Accounting Officer should establish adequate mechanisms to ensure adequate revenue collection in terms Section 65 (1) of Public Finance Management (National Government) Regulations, 2015, and Section 197 (1) (k) of the PFM Act, 2015.**

1332. Pending Bills

3537) During the year under review, pending bills amounting to Kshs. 613,798,064 chargeable to both the recurrent and development vote were not settled but were instead carried forward to 2018/2019 Financial Year. Had these bills been cleared and charged to the vote, the statement of receipts and payments for the year 2017/2018 would have reflected a net deficit of Kshs. 517,383,468 instead of the net surplus of Kshs. 96,414,596 now shown. Further, the pending bills are not supported with contracts, invoices, works completion certified certificates, payment vouchers except for a listing of amount outstanding. In addition, no explanation was provided for failure to pay the pending bills as they fell due.

3538) In view of the foregoing, the propriety and validity of the pending bills of Kshs. 613,798,064 could not be confirmed.

Submission by the Accounting Officer

3539) The Accounting Officer submitted that the total approved budget for Judiciary in FY 2017/18 was Kshs. 14,651,893,728. However, the total expenditure was Kshs. 13,800,043,861 leaving an unutilized amount of Kshs. 851,849,867 which is more than the realized pending bill of Kshs. 613,798,064 by Kshs. 238,051,803. Therefore, had the full exchequer been received, all the bills would have been paid up and no deficit would have arisen.

3540) The main reason why the pending bills were not paid was that the National Treasury through circulars Ref No ES 1/03 and ES 1/07/02 'A' (34) on austerity measures required all MDAs to reduce their recurrent budget items by up to 75% which affected the Judiciary's budget. These austerity measures led to—

i. The Judiciary`s Budget allocation being reduced from 17.1 Billion to 14.6 Billion in the FY 2017/2018, being 15% reduction hence most ongoing projects could not be paid.

ii. The Judiciary`s Development Budget for the FY 2017/2018 was reduced by Kshs 124 Million from Kshs 340Million to Kshs 216 Million.

3541) The pending bills listed in our Financial Statements have since been cleared as a first charge in the FY 2018/19. All the pending bills were supported by the relevant documents i.e. contracts, invoices, certified certificates and payment vouchers and have been availed for audit review.

Committee Observations and findings

3542) The Committee observed and found that:

1) The Committee observed that documents in support of the pending bills not provided as required under the PFM Act, 2012 resulting to delayed issuance of the exchequer and failure to pay the pending bills on time; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3543) The Committee recommended that:

1) **The Accounting Officer should ensure that documents in support of pending bills are availed in the manner required under Section 65 of Public Finance Management**

(National Government) Regulations, 2015, and Section 197 (1) (k) of the PFM Act, 2015.

2) **General recommendation on pending Bills should be honoured immediately. Provide that pending Bills shall be a first charge on the account**

Other Matters

1333. Budget and Budgetary Control

1333.1 Receipts

3544) The Judiciary had budgeted for receipts totaling Kshs. 14,651,893,728 but actual amount realized was Kshs. 13,896,458,457 resulting to a shortfall of Kshs. 1,127,809,998 or 8%.

Submission by the Accounting Officer

3545) The Accounting Officer submitted that the reason for the shortfall is non-release of exchequer and conversion of JPIP loan from revenue to AIA allowing the development partner to pay suppliers/contractors directly hence reducing the amount that would have been received as exchequer from the donor.

Committee Observations and Findings

The Committee observed and found that the Accounting Officer needs to be proving required documents on time to receive funds from the exchequer on time to meet the budget requirements.

1333.2 Payments

3546) The Judiciary had an expenditure budget of Kshs. 14,651,893,728 against actual payments for the year totaling Kshs. 13,800,043,861 resulting to an under expenditure of Kshs. 851,849,868 or 6%. The under expenditure of Kshs. 851,849,868 or 6% implies that the judiciary did not implement some of the planned activities for the year.

Submission by the Accounting Officer

3547) The Accounting Officer submitted that it was true that there was an under expenditure of Kshs. 851,849,868 in the FY. This is attributed to lack of exchequer.

Committee Observations and Findings

3548) The Committee observed and found that:

1) The Committee observed that the Accounting Officer needs to be filing receipts and other documents key for payments on time to enable quick flow of funds from the exchequer to be able to implement all planned activities;
2) The Committee also observed that the Accounting Officer did not provide the specific projects and activities affected by the under expenditure of Ksh. 851,849,868; and

3) The Committee further observed that the Accounting Officer needed to provide the mitigating measures put in place by the Judiciary to avoid such scenarios in future.

Committee Recommendation

3549) The Committee recommended that:

The Accounting Officer should ensure compliance with Section 197 (1) (k) of the PFM Act, 2012 and Section 65 (1) of Public Finance Management (National Government) Regulations, 2015.

3550) The Committee observed that Paragraph 1334 to 1335 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

RECEIVER OF REVENUE – THE JUDICIARY

REVENUE STATEMENT FOR THE YEAR ENDED 30 JUNE 2018

1336. Accuracy, Completeness and Presentation of the Revenue Statement
1336.1 Inaccuracies in the Revenue Statements

3551) The opening balances of Fees on Use of Goods or Services and, Fines, Penalties and Forfeitures in the Statement of Receipts and Transfers for the year under review was Kshs. 470,931,785. However, audit review and summation of all opening balances reflected on all active courts stations' revenue accounts indicated that the opening balances ought to be Kshs. 703,507,022 resulting to a difference of Kshs. 232,575,237 which has not been explained and reconciled.

3552) Further, note 1 (a) and (b) reflect closing balance of Fees on Use of Goods or Services and, Fines, Penalties and Forfeitures, as Kshs. 582,062,448. However, bank collection account for the same revenue reflected a closing balance of Kshs. 769,984,838 resulting to variance of fees by Kshs. 187,922,390.

Submission by the Accounting Officer

3553) The Accounting Officer submitted that it was true that the summary of the opening balances for all revenue accounts in bank totalled to Kshs. 703,507,022. However, as at the beginning of the FY 2017/18, the opening balance in our financial statement totalled Kshs. 470,931,785 which is money receipted and surrendered to the headquarters which is a cashbook balance. The Public Sector Accounting Standards and the financial statement reporting template requires that the financial statements be prepared based on cashbook balances and not on bank balances.

3554) The figure of Kshs. 703,507,022 is the bank balance which includes un-receipted amounts while the Kshs. 470,931,785 is the cashbook balance which is receipted and surrendered. The difference of Kshs. 232,575,237 is composed of money banked at various court stations but not receipted and surrendered to the headquarters as at the beginning of the financial year.

3555) At the end of FY 2017/18, the bank balance of the main revenue collection account was Kshs. 769,984,838. During the year, a policy to sweep all funds from stations account into a collection account was introduced in November 2017. Thus, the balance of Kshs. 582,062,448 was the amount receipted and surrendered to the HQ by the stations, leaving a balance of Kshs. 187,922,390 which was not receipted and surrendered. This balance has since been receipted and surrendered.

Committee Observations and findings

3556) The Committee observed and found that:

1) The Committee observed that documents including Statement of Receipts and Transfers have not been submitted to-date;
2) The Committee also observed that the Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that the Judiciary prepares accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts; and
3) The Committee further observed that the Accounting Officer did not give reasons for failure to ensure timely reconciliation of bank balances in violation of Regulation 91 of the PFM (National Government) Regulations, 2015; and
4) The matter therefore remained unresolved.

Recommendations Recommendation

3557) The Committee recommended that:

The Accounting Officer should ensure compliance with Section 197 (1) (k) of the PFM Act, 2012 and Section 65 (1) of Public Finance Management (National Government) Regulations, 2015.

1336.2 Unsupported Revenue Statement – Fees and Fines

3558) Financial Statement reflect Fees on Use of Goods or Services and Fines, Penalties and Forfeitures amounting to Kshs. 954,904,031 and Kshs. 1,123,835,935 respectively. However, it was not possible to confirm the accuracy and correctness of the figures due to the following observation—

1336.2.1 Unexplained Revenue Variances

3559) Audit review of the Judiciary revenue schedule supporting the Statement of Receipts and Transfers figure for courts visited reflected revenue collected of Kshs. 1,172,172,681. However, amounts collected as per the Collection Control Sheets was Kshs. 1,146,393,353 resulting in a difference of Kshs. 25,779,327 that has not been reconciled.

3560) Further, the Judiciary revenue schedule supporting the Statement of Receipts and Transfer for 2017/2018 indicates fines, penalties and forfeitures as Kshs. 1,129,476,603. This differed from the amount reflected in Statement of Receipts and Transfer of Kshs. 1,123,835,935 by Kshs. 5,640,668 that resulted from refund of fines to deposit account upon successful appeal of cases. However, Judiciary did not provide for audit review list of cases which were successfully appealed and the bank statement of reflecting the refunds for review. In the absence of the list of cases and bank statement reflecting refunds, the difference of Kshs. 5,640,668 could not be verified.

Submission by the Accounting Officer

3561) The Accounting Officer submitted that it was true that at the time of preparing the Financial Statement, Kshs. 1,172,172,680.58 was reflected in the Judiciary revenue schedule for the stations visited by the auditors. The CCSs reviewed by the auditors at the stations, amounted to a total of Kshs. 1,146,393,353.43 indicating a difference of Kshs. 25,779,327.15. This difference comprises of Kshs. 4,669,617.35 relating to fees and Kshs. 21,109,709.80 relating to fines which was caused by non-inclusion of certain CCSs by the station in their submissions to the auditor. Copies of CCSs from the stations are attached.

3562) The Difference of Kshs 5,640,668 relating to reinstated/refunded fines to deposits account upon successful appeal of cases. The list of reinstated forfeitures, fines and bank statements were attached for perusal by the Committee.

Committee Observations and findings

3563) The Committee observed and found that:

1) The Committee observed that the Accounting Officer did not provide to the Auditor General the list of cases and bank statement reflecting refunds of the difference of Kshs. 5,640,668 for verification;
2) The Committee also observed that the Accounting Officer breached Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that the Judiciary prepares accurate and complete revenue statements that conforms to Regulation 97 on the basic structure of government accounts; and
3) The Committee further observed that the Accounting Officer failed to provide expenditure details for the list of cases appealed successfully and fines refunded. This offence of financial misconduct under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine of up to 10 million and or jail term of up to five years; and
4) The matter therefore remained unresolved.

Committee Recommendation

3564) The Committee recommended that:

The Accounting Officer should ensure compliance with Section 197 (1) (k) of the PFM Act, 2012 and Section 65 (1) of Public Finance Management (National Government) Regulations, 2015.

1336.3 Revenue not Supported by Daily Cash Collection Schedule – Milimani Law Courts

3565) The Milimani Law Courts did not provide daily cash analysis sub schedules to support fees and fines for the months of July to march 2018 totalling Kshs. 83,924,475 and Kshs. 99,349,749 respectively. In the absence of daily cash analysis sub schedules, fees and fines totalling Kshs. 83,924,475 and Kshs. 99,349,749 respectively all totalling to Kshs. 183,274,224 could not be verified.

Submission by the Accounting Officer

3566) The Accounting Officer submitted that it was true that at the time of the audit the daily cash collection schedules were not availed since they had been misfiled. The daily collection schedules are available which were summarized in each Cash Collection Schedules (CCS) during monthly surrenders to Headquarters (HQs) and subsequently remitted to Central Bank of Kenya (CBK).

Committee Observations and findings

3567) The Committee observed and found that:

1) The Committee observed that the Accounting Officer did not provide to the Auditor General, schedules and receipts for the daily cash analysis to support fees and fines for the months of July to March 2018 totaling Ksh. 83,924,475 and Ksh. 99,349,749, for verification;
2) The Committee also observed that the Accounting Officer's failure to provide schedules and receipts for daily cash analysis to support fees and fines for the months of July to March 2018 totaling Ksh. 83,924,475 and Ksh. 99,349,749 respectively, was an Offence. This offence of financial misconduct under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine and or jail term of up to five years; and
3) The matter therefore remained unresolved.

Committee Recommendation

3568) The Committee recommended that:

The Accounting Officer should always ensure compliance with Section 197 (1) (k) of the PFM Act, 2012 and Section 65 (1) of Public Finance Management (National Government) Regulations, 2015.

1336.4 Fraud at Milimani Law Courts

3569) Audit review revealed that Milimani Law Courts lost Kshs. 9,341,228 through receipting of fees using parallel and fake receipts in Environment and Land Registries. The receipts were neither reflected in the bank statement, recorded in the cashbook nor the Counter Receipt Book registers maintained at both Head office and Milimani Law Courts.

Submission by the Accounting Officer

3570) The Accounting Officer submitted that during a routine exercise to reconcile the revenue account at Milimani LC, an unaccounted for amount of Kshs. 9,341,228 was discovered in revenue collections and surrender records. The Judiciary requested the DCI to investigate the matter and provide necessary recommendations. Subsequently, the DCI summoned some staff involved in handling receipts at the time in 2018 and the outcome of this process is being awaited. Attached for perusal by the Committee were letters by CRJ requesting DCI to investigate and DCI response.

Committee Observations and findings

3571) The Committee observed and found that:

1) The Committee observed that the Accounting Officer has not made any efforts to recover the monies lost and reconcile the financial statements;
2) The Committee also observed that the Accounting Officer has not initiated any process of punishment to the responsible Officers as required by the PFM Act 2012;
3) The Committee further observed that the Accounting officer has not reported and/or instituted any civil proceedings against the Officers involved in line with Section 68 (2) (m) of the PFM Act, 2012 read together with Section 202 (2) to ensure personally liability for the fraudulent action as required under Section 202 (1) of the PFM Act, 2012;
4) In addition, The Committee observed that the Accounting Officer did not provide evidence of the steps being taken to seal revenue leakages in courts across the country; and
5) The matter therefore remained unresolved.

Committee Recommendation

3572) The Committee recommended that:

1) **The Accounting Officer should, within three (3) months of the adoption of this report, establish measures to institute against revenue leakages in courts across the country.**
2) **The Accounting Officer should ensure compliance with Section 197 (1) (k) of the PFM Act, 2012 and Section 65 (1) of Public Finance Management (National Government) Regulations, 2015.**
3) **DCI should within three months upon tabling and adoption of this report, carry out investigations and provide a status report to Parliament.**

1336.5 Un-receipted Tribunal Courts Fees

3573) Audit review revealed that over 8,000 pieces of tribunal fees banking slips from Tribunal Courts spread across the Country and whose revenue were deposited in Milimani Law Courts revenue account were not presented for receipting. On inquiry, only 1,300 pieces of tribunal fees banking slips representing fee collected of Kshs. 596,575 were presented for audit review. The rest of 6,700 pieces of tribunal banking slips were not availed for review. Therefore, it was not possible to establish the total amounts of fees collected by the Tribunal Courts in 2017/2018.

Submission by the Accounting Officer

3574) The Accounting Officer submitted that she had since provided the banking slips as requested by the audit team. The team had reviewed the slips and a schedule of the review was attached for perusal by the Committee.

Committee Observations and findings

3575) The Committee observed as follows—

1) Tribunal fees were banked at Milimani Law Courts revenue accounts, and not the judiciary main account;
2) The Accounting Officer did not provide 6,700 tribunal banking slips for audit review within the required time, an offence of financial misconduct under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine and or jail term of up to five years;
3) The receipts were later for audit verification, reviewed and agreed upon; and
4) The matter was therefore resolved.

1336.6 Mis-statement of Fees and Fines – Milimani Law Courts

3576) Milimani Law Courts collected Kshs. 246,526,472 in 2017/2018 as per the availed Judiciary revenue schedules. However, the amounts banked as per the bank statement was Kshs. 324,129,910 resulting in a difference of Kshs. 77,603,438. The difference was caused by deposits of tribunal fees collected from courts across the country into the Judiciary revenue account without presenting the deposit slips for receipting as per the revenue collection report for Milimani Law Courts. Similarly, the tribunal court fees bank slips were not recorded in cashbook nor disclosed in the Judiciary Statement of Receipts and Transfers for 2017/2018. In addition, the fees were neither included in the Judiciary fees balance nor disclosed in the Judiciary Statement of Receipts and Transfers for 2017/2018.

Submission by the Accounting Officer

3577) The Accounting Officer submitted that the difference of Kshs. 77,603,438 relates to revenue (including tribunal fees) banked in the Milimani Law court account for which bank deposit slips had not been presented for receipting.

Committee Observations and findings

3578) The Committee observed and found that:

1) The Committee observed that the Accounting Officer did not adjust the revenue schedules to reflect the position at the bank within one month after the close of the financial year pursuant to Regulation 97 (3) read together with Regulation 97 (1) of the PFM (National Government) Regulations 2015;
2) The Committee also observed that the Accounting Officer made the adjustments later and provided the adjusted statements to the Auditor General for verification and review; and
3) The Committee marked the matter as resolved.

1336.7 Recurring Items in the Bank Reconciliation Statement for More Than Three Months

3579) Examination of Bank Reconciliation Statement as at 30th June 2018 for various court stations revealed transactions that had recurred in the reconciliation for more than three months as detailed below. No explanation has been provided for this anomaly.

Analysis of Recurring items in the Bank Reconciliation Statement

Court Stations	Receipts in the cash book not recorded in the bank statement	Payments in the bank Statement not yet recorded in the cash book	Receipts in the Bank Statement not in the cash book	Payments in the Cashbook not in the bank statement
Milimani Commercial Courts	27,725.00	-	1,461,459.80	-
Meru Law Courts	70,230.00	27,382,180.00	74,940.00	26,626,609.00
Machakos Law Courts	1,347,234.00	20,590.00	-	-
Nyeri Law Courts	-	-	-	90,185.00
Totals	**1,445,189.00**	**27,402,770.00**	**11,536,399.80**	**26,717,794**

Submission by the Accounting Officer

3580) The Accounting Officer submitted that it was true that at the time of audit there were various items which were recurring in the bank reconciliations for the four (4) station for more than 3 months which were as a result of litigants delaying to present bank slips for receipting, forfeiture funds which had not been transferred from deposit accounts, and bank charges not paid. The items can only be cleared in the reconciliations once the deposit slips have been presented for receipting, the forfeiture amount has been transferred to revenue account and the bank charges paid. The items have since been cleared and attached are bank reconciliation statements from the four (4) stations.

Committee Observations and findings

3581) The Committee observed as follows, —

1) That at the time of audit, various items the four (4) station had been recurring in the bank reconciliations for more than 3 months;
2) That by having three months recurrence of reconciliations, the Accounting Officer contravened Regulation 90 (1) of the PFM (National Government) Regulations 2015 which, mandates Accounting Officers to ensure that every month, bank accounts are reconciled for each bank account held by Judiciary, and a reconciliation statement sent to the National Treasury with a copy to the Auditor-General not later than the 10th day of the subsequent month;
3) That the items had been cleared, and bank reconciliation statements from the four (4) stations availed for review; and
4) The matter was resolved.

1336.8 Unsupported Clearance of Receipt in Bank Not in Cash Book – Milimani Law Courts

3582) A review of July 2017 and August 2017 bank reconciliation statements revealed reconciliation differences amounting to Kshs1,204,443 being historical receipts in the bank not in the cash book cleared in September 2017. However, the supporting receipts or documents used to clear the reconciliation difference were not availed for audit review and therefore it is not clear how those historical receipts were cleared.

Submission by the Accounting Officer

3583) The Accounting Officer submitted that it was true that the bank reconciliation statements for July 2017 and August 2017 for the station had a reconciliation difference amounting to Kshs. 1,204,443 which was due to delays by litigants to present bank slips for receipting. This has since been cleared and copies of CCS used to clear were attached for perusal by the Committee.

Committee Observations and findings

3584) The Committee observed as follows—

1) That at the time, the Accounting Officer had failed to provide supporting receipts or documents used to clear the reconciliation difference;
2) That the explanation given by the Accounting Officer for failure to provide supporting receipts or documents used to clear the reconciliation difference at the time of audit was not unsatisfactory;
3) That Section 197 (1) (k) of the PFM Act, 2012 provides that failure to provide supporting receipts or documents used to clear the reconciliation difference within the required timelines is an offence, punishable by a not exceding Ksh. 10 million or a jail term not exceeding five years, or to both.
4) The reconciliation differences had been cleared and the cash collection schedules used to clear the reconciliation reviewed, verified, and agreed upon.
5) The matter was resolved.

1336.9 Long Outstanding Miscellaneous Receipts for Fees and Fines – Milimani Law Courts

3585) A review of Counter Receipts Book – (CRB) register and cashbook revealed that there were thirty (30) long outstanding un-surrendered Miscellaneous Receipt books used for receipting Forfeitures, utilization of fines and Fees. In addition, some of the cashiers were holding more than one receipt book. The receipted amounts using receipt books not surrendered though banked were neither recorded in the cash book nor reflected in the 2017/2018 Statement of Receipts and Transfers. It was not clear why it had taken long to surrender the miscellaneous receipt books.

3586) Further, it was noted that only fourteen (14) receipt books with a total collection of Kshs. 17,856,765 being Kshs. 492,265 in fees and Kshs. 17,364,500 in fines were availed for audit review. Sixteen (16) receipt books were not availed and it was not possible to establish the amounts collected using the missing receipt books.

3587) In addition, from the Courts visited it was observed that, in some instances, the miscellaneous receipt total amounts differed with the Collection Control Sheets, surrenders and Receipt Vouchers (FO 17) amounts.

Submission by the Accounting Officer

3588) The Accounting Officer submitted that it was true that at the time of audit, thirty (30) receipt books had not been surrendered which was caused by shortage of staff to retrieve case files which had been returned to the registry upon completion of the case for preparation of surrender documents. All the books have since been surrendered and copies of CRB were attached for perusal by the Committee.

Committee Observations and findings

3589) The Committee observed as follows—

1) That at the time of audit for the financial year, some of the cashiers were still withholding thirty (30) outstanding un-surrendered miscellaneous receipt books used for receipting forfeitures, utilization of fines and fees;
2) That the cashiers had been withholding the thirty (30) outstanding un-surrendered miscellaneous receipt books for a long time.
3) That, only fourteen (14) receipt books with a total collection of Kshs. 17,856,765 being Kshs. 492,265 in fees and Kshs. 17,364,500 in fines were availed later for audit review.
4) That the explanation given by the Accounting Officer for failure to avail sixteen (16) receipt books was unsatisfactory;
5) Failure to avail documents for audit verification is an offence under Section 197 (1) (k) of the PFM Act, 2012, punishable by a fine not exceeding Ksh. 10 million or imprisonment for a term not exceeding five years;
6) That the sixteen (16) receipt books were later availed, verified, and agreed upon.
7) The Committee marked the matter as resolved.

1336.10 Reporting of Revenue in Incorrect Accounting Period

3590) Examination of accountable documents revealed that revenue collected in 2016/2017 totalling Kshs. 13,459,312 was accounted and reported in 2017/2018 revenue statements. This resulted in misstatement of statement of Receipts and Transfers for 2017/18.

Submission by the Accounting Officer

3591) The Accounting Officer submitted that it was true that the banking for revenue collected in FY 2016/17 was surrendered late and thus were received and accounted for in the beginning of FY 2017/18. Shanzu (Kshs. 2,575,500) and JKIA (Kshs. 115,000) were newly established courts and they were initially processing the forfeitures through the mother courts thus causing delays in surrenders. For Meru (Kshs. 10,768,812) this delay was attributed to late surrenders and administrative action was taken against the concerned staff.

Committee Observations and findings

3592) The Committee observed as follows—

1) That the explanation given by the Accounting Officer on the misstatements reflected on the statement of Receipts and Transfers for 2017/2018 was satisfactory.
2) The was resolved.

1336.11 Un-receipted Transaction – Eldoret law Courts

3593) Analysis of daily collections revealed that there were no fines collected, recorded and receipted on; 14th august 2017 and 12th September 2017 to 14th September 2017. However, during the same dates, a total of Kshs. 144,000 was recorded as collections in the traffic case register. This mix-up may have resulted into possible processing of irregular revenue transactions.

Submission by the Accounting Officer

3594) The Accounting Officer submitted that a review of the Bank statement indicates that there were banking of Kshs 262,770.00 collected on the said dates. A further analysis reveals that Kshs 144,000.00 was part of the amount banked on the stated dates. Hence there was no money lost. The following copies were attached for perusal by the Committee: -

i. The traffic Case register for the 4 days to show the amounts
ii. Receipts issued as per the register
iii. A Bank statement confirming the banked amounts

Committee Observations and Findings

3595) The Committee observed as follows—

1) That the Accounting Officer did not correct the revenue receipts within one month after the close of the financial year, pursuant to Regulation 97 (3) read together with Regulation 97 (1) of the PFM (National Government) Regulations, 2015;
2) That the explanation given by the Accounting Officer on account of paragraph No. was unsatisfactory;
3) That the Accounting Officer later corrected the revenue receipts and they were pending review, verification and concurrence by the Auditor General.
4) The matter was therefore unresolved.

1336.12 Overstated Revenue – Thika Law Courts

3596) The collection control sheets prepared by Thika Law Court indicated that fees amounting to Kshs. 25,789,612 was collected during the year. However, the fees surrendered and reflected in the Miscellaneous Receipts (MRs) totalled Kshs. 23,436,534. Variance of Kshs. 2,362,078 has not been explained.

Submission by the Accounting Officer

3597) The Accounting Officer submitted that an analysis of revenue collected at the station based on the CCSs and MRs held at station shows total revenue collected in the year as Kshs. 23,436,534. Attached is a revenue analysis table for the station. The copies of CCSs and revenue surrender documents held at the headquarters show total revenue collected by the station to be Kshs. 23,436,534. Therefore, there was no misstatement of revenue. Copies of the CCSs and MRs were availed for audit review.

Committee Observations and Findings

3598) The Committee observed as follows—

1) That the Accounting Officer failed to ensure that Thika Law Courts prepares accurate, complete, and reconciled revenue statements incompliance with the set timelines;
2) The Accounting Officer Contravened Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that Thika Law Courts prepares accurate, complete and reconciled revenue statements;
3) That the Accounting Officer later prepared accurate, complete, and reconciled revenue statements and availed them for audit review.
4) The matter was resolved.

1336.13 Unexplained Variances between Collection Control Sheet and Bank Statements

3599) All fees and fines collected by the courts are daily recorded in the collection control sheets and subsequently banked. However, comparative analysis of revenue collection control sheets versus revenue banked and reflected in bank statements revealed variances of both over and under banking that was explained and reconciled as detailed below. Consequently, the accuracy and completeness of revenues, fees and fines, reflected in revenue statement could not be confirmed.

Analysis of unexplained variances between collection control sheets and bank statement

Court Stations	Collection Control Sheets (Kshs.)	Bank Statement (Kshs.)	Variance (Kshs.)
Thika	55,336,887.00	56,258,294.00	-921,407.00
Kitale	5,968,690.00	5,921,025.00	47,665.00
Shanzu	29,580,613.00	28,494,473.00	-1,086,140.00
Naivasha	48,558,572.00	49,568,304.00	-1,009,732.00

Submission by the Accounting Officer

3600) The Accounting Officer submitted that since direct banking was introduced in Judiciary, it happens that there is usually higher amounts in the bank than the receipted amounts in the cash book which is caused by customers' delays in submitting the banking slips for receipting. This was the cause of variances observed by the auditors in the four stations as shown in the corrected table below;

Analysis of unexplained variances between collection control sheets and bank statement

Court Stations	Collection Control Sheets (Kshs.)	Bank Statement (Kshs.)	Variance (Kshs.)
Thika	55,336,887.00	56,258,294.00	-921,407.00
Kitale	28,813,110.00	28,916,164.00	-103,054.00
Shanzu	29,885,351.00	28,494,473.00	1,390,878.00
Naivasha	48,558,572.00	49,568,304.00	-1,009,732.00

3601) We have analysed our CCSs and bank statements and found that for Kitale Law court, the total collection as per the CCS was Kshs. 28,813,110 and banking was Kshs. 28,916,164.00 which differs with the figures observed by the auditors of Kshs. 5,968,690 and Kshs. 5,921,025 respectively. For Thika, Kitale and Naivasha the variances are due to un-receipted deposits in the bank.

3602) For Shanzu the CCs add up to Kshs. 29,885,351.00 and bankings of Kshs. 28,494,473.00 giving a difference of Kshs. 1,390,878.00 which is un-transferred forfeiture amount from the mother station. The forfeiture has since been transferred from the mother station and surrendered.

Committee Observations and Findings

3603) The Committee observed as follows—

1) That the Accounting Officer failed to ensure that Thika, Kitale, Shanzu and Naivasha Law Courts prepares accurate, complete, and reconciled revenue statements within the required timelines;
2) The Accounting Officer contravened Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that Thika, Kitale, Shanzu and Naivasha Law Courts prepares accurate, complete and reconciled revenue statements;
3) That the Accounting Officer later prepared accurate, complete, and reconciled revenue statements and availed them for audit review; and
4) The matter was resolved.

1336.14 Revenue Not Banked – Machakos Law Courts

3604) Audit review of bank reconciliation statement revealed that an amount of Kshs. 1,176,713 that was shown in the previous bank reconciliation statement as receipt in cash book not recorded in bank statement had been cleared in the bank reconciliation statement for June 2018. However, the transaction to clear this amount was not reflected in the bank statement to ascertain its correctness. Therefore, the clearance of Kshs. 1,176,713 from bank reconciliation statement could not be confirmed.

Submission by the Accounting Officer

3605) The Accounting Officer submitted that the bank reconciliation statement reviewed by auditors had an error which tried to clear receipts in cash book not recorded in bank statement which has since been corrected and the figure retained. Attached is the current bank reconciliation statement for the station. The figure is as a result of amounts not transferred by the District Treasury to the judiciary account upon delinking. The National Treasury and Judiciary has formed a taskforce which is in the process of reconciling these figures across the country for Treasury to provide the funding.

Committee Observations and Findings

3606) The Committee observed as follows—

1) That the Accounting Officer failed to ensure that revenues totaling Ksh. 1,176,713 collected in Machakos Law Courts was banked within the required timelines;
2) That failure to bank public money entrusted to a public officer is an offence of financial misconduct under Section 197 (1) (g) of the PFM Act, 2012, punishable by a fine of up to Ksh. 10 million and or jail term of up to five years;
3) That, the Accounting Officer later ensured that revenues totaling Ksh. 1,176,713 collected in Machakos Law Courts were banked and banking slips availed for audit verification; and
4) The matter was resolved.

1336.15 Unaccounted for Collections of Court Revenue

3607) Analysis of revenue collection account revealed that Mombasa Law Courts failed to account for revenue totalling Kshs. 757,185 collected during the year. As a result, fees and fines reflected in statement of receipts and transfers is misstated. No explanations have been provided for the omission.

Submission by the Accounting Officer

3608) The Accounting Officer submitted that they had reviewed their records against the audit findings and noted that the variance of Kshs 757,110.50 is as analyzed in the table below. Copy of the CCS No. 0256922 is attached. Below is the makeup of the variance:

	Kshs.
Deposit forfeiture for April,2017 surrendered in July,2017 through CCS No. 0256922 banked on 26-04-2017 CHQ NO: 002745	135,000
Deposit forfeiture for April, May & June 2017 surrendered in July'2017 through CCS No. 0256922 banked on 12/06/2017 CHQ NO: 002898	85,000
Deposit forfeiture for April, May & June 2017 surrendered in July'2017 through CCS No. 0256922 banked on 12/06/2017 CHQ NO: 002897	270,000
Deposit forfeiture for April, May & June 2017 surrendered in July'2017 through CCS No. 0256922 banked on 12/06/2017 CHQ NO: 002896	267,000
Court Collection fees erroneously issued on deposit forfeiture receipt CHQ NO: 3096 dated 31/07/17	110.50
TOTALS	757,110.50

Committee Observations and Findings

3609) The Committee observed as follows—

1) The Accounting Officer failed to account for revenue totalling Kshs. 757,185, collected at Mombasa Law Courts during the year, within the required timelines;

2) The Accounting Officer did not initiate administrative or other action against the officer who failed to account for court revenue in Mombasa law courts in contravention of Regulation 63(4) and 63(5) of the PFM (National Government) Regulations 2015.
3) That revenue totalling Kshs. 757,185 collected at Mombasa Law Courts during the year under audit was later accounted for, and agreed upon.
4) The matter was resolved.

1336.16 Inaccurate Accounting Records

3610) The Machakos Law Courts in carrying out bank reconciliation statement for 30th November 2017 used a bank balance of 544,130 as opposed to Kshs. 70,694 reflected in the bank statement and certificate of balance thereby resulting to variance of Kshs. 473,436 that has not been explained.

3611) Similarly, the closing cash book balance of Kshs. 15,304,129 reflected as at 30th June 2017 was carried forward and misrepresented as opening balance on 1st July 2017 in the cash book as Kshs. 16,206,105 resulting to a variance of Kshs. 901,976. No explanation was provided for this anomaly.

Submission by the Accounting Officer

3612) The Accounting Officer submitted that the electronic bank statement dated 30th November 2017 showed a bank balance of Kshs 544,130. On noticing the anomaly, the station wrote to the bank for explanation on the balance. After an inquiry by the station the bank indicated that the balance was not correct as there were several transactions which had been credited twice (Duplicated) in the bank statement. These repeated transactions were later on reversed by the bank. Copies of the corrected bank statement showing a balance of Kshs. 70,694 and other correspondences were attached for perusal by the Committee.

3613) We have reviewed the station cashbook at the time and note that the closing balance as at 30th June 2017 was Kshs. 868,481 in the cash book as per certified copy by the board of survey which was carried forward as the opening balance as at 1st July 2017. Copies of the cashbook and board of survey report were attached were attached for perusal by the Committee. From the extracts of the cashbook, the Kshs. 15,304,129 and Kshs. 16,206,105 do not appear as opening and closing balances.

Committee Observations and Findings

3614) The Committee observed as follows—

1) That the Accounting Officer failed to maintain proper receipts, certificates of balances, and other reconciliation records used during bank reconciliations.
2) The Accounting Officer did not initiate administrative or other action against the officer who failed to account for court revenue in Mombasa law courts in contravention of Regulation 63(4) and 63(5) of the PFM (National Government) Regulations 2015.

3) The Committee further observed that after the audit period for the financial in question, proper receipts, certificates of balances and other reconciliation records were provided and verified by the Auditor General.
4) The matter was resolved.

1336.17 Unsupported Fines – Mavoko Law Courts

3615) Audit review of schedule supporting Statement of Receipts and Transfers in the FY 2017/2018 for Mavoko Law Courts reflect fines collected as Kshs. 42,192,369. However, the Collection Control Sheets reflect total fines collection of Kshs.29,145,323 resulting in an unexplained difference of Kshs. 13,047,046. No explanations was received for the difference.

Submission by the Accounting Officer

3616) The Accounting Officer submitted that a reconciliation has been carried out between the HQ and station records and confirmed that the total fines collected and reported were Kshs 42,192,369 hence there is no variance and mis-statement of revenue reported during FY 2017/2018. Below is the list of CCS which had not been availed to auditors at the time of audit due to misfiling that add up to the stated difference of Kshs. **13,047,046.00.**

AC696579	2,690,124.00
AC696575	1,947,907.00
AC696578	2,503,171.00
AC696595	998,493.00
AC696774	2,772,702.00
AC696775	2,134,649.00
	13,047,046.00

Copies of CCSs were attached for perusal by the Committee.

Committee Observations and Findings

3617) The Committee observed as follows—

1) That the Accounting Officer failed to provide receipts and accurate, complete and reconciled revenue statements for audit verification;
2) The Accounting Officer contravened Section 68 (2) (b) of the PFM Act, 2012 by failing to ensure that Mavoko law courts prepares accurate, complete, and reconciled revenue statements within the required time.
3) The matter was unresolved.

Committee Recommendation

3618) The Committee recommended that:

The Accounting Officer should always ensure compliance with Section 197 (1) (k) of the PFM Act, 2012 and Section 65 (1) of Public Finance Management (National Government) Regulations, 2015.

1336.18 Misstatement of transfers to Exchequer

3619) Audit review of CBK Judiciary revenue collection account number 1000352043 revealed that the total revenue collected in 2017/2018 and transferred to Exchequer was Kshs. 1,606,395,575. However, Statement of Receipts and Transfers reflect Kshs. 1,967,607,303 resulting in an excess disclosure of Kshs. 361,211,728 that has not been explained.

Submission by the Accounting Officer

3620) The Accounting Officer submitted that at the beginning of the financial year, the Judiciary's revenue collection account at CBK was account no. 1000209569. This account was closed by the CBK since it had been opened in the name of JSC instead of Judiciary. Copy of the CBK letter on closing the account was attached. A new account no. 1000352043 was opened where Kshs. 1,606,395,575 collected after the closure of initial account was transferred to. Copy of the CBK letter opening another account was attached. By the time of closure of the initial account no. 1000209569 we had transferred funds totalling Kshs. 361,211,728 to it. Therefore, the total of Kshs. 1,967,607,303 shown in financial statements is the total of the two accounts.

Committee Observations and Findings

3621) The Committee observed as follows—

1) That the explanation by the Accounting Officer regarding the excess disclosure of Kshs. 361,211,728 and supporting documents was unsatisfactory.
2) The Accounting Officer did not correct the misstatement of transfers to exchequer within one month after the close of the financial year, pursuant to Regulation 97 (3) read together with Regulation 97 (1) of the PFM (National Government) Regulations 2015.
3) The matter was unresolved.

Committee Recommendation

3622) The Committee recommended that:

The accounting officer must always ensure compliance with Regulation 97 (3) read together with Regulation 97 (1) of the PFM (National Government) Regulations 2015.

1336.19 Unaccounted Revenue Transfers

3623) Audit verification revealed that revenue totalling Kshs. 84,033,694 transferred from respective Court Station bank accounts to Head Office revenue collections accounts, could not be traced Judiciary revenue collection account. No explanation was provided for the missing revenue.

Submission by the Accounting Officer

3624) The Accounting Officer submitted that the table below shows a schedule of amounts transferred from respective stations' accounts to CBK collection account.

Station	**From Acc. No**	**Amount**	**Instruction Date**	**To CBK Acc. No.**
Milimanin LC		11,731,010		1000209569
COA		1,472,430	18 July 2017	1000209569
Milimani LC		29,362,160		1000209569
Makadara		1,926,490		1000209569
Kibera		14,446,702		1000209569
ELRC		855,750		1000209569
Makadara		1,447,145		1000209569
ELRC		843,990		1000209569
Kibera		1,163,510		1000209569
Kibera		9,178,975		1000209569
COA		1,472,430		1000209569
Milimani C	1116928477	15,104,621	18 July 2017	1000209569
		89,005,213		

3625) As per the above schedule, the total amount transferred from the listed stations is amounts to Kshs. 89,005,213. This money was transferred to the earlier referred to collection account no. 1000209569 which was later closed. Therefore, the money could not be traced either in KCB Judiciary revenue collection account number 1117161749, Moi Avenue or Judiciary Revenue Collection Account number 1000352043 at CBK. Copies of the transfer instructions were attached for perusal by the Committee.

Committee Observations and Findings

3626) The Committee observed as follows—

1) The Accounting Officer did not account for revenue totalling Kshs. 84,033,694 transferred from respective Court Station bank accounts to Head Office revenue collections accounts within the required timelines.
2) The Accounting Officer did not initiate action against the Head of the Accounting Unit for failure to account for revenue transfers from respective court station bank accounts in contravention of Regulation 63(4) and 63(5) of the PFM (National Government) Regulations 2015.
3) The matter was therefore unresolved.

1336.20 Unexplained transfers – Machakos Law Courts

3627) Analysis of Machakos Law Courts revenue bank statement for 2017/2018 revealed unexplained outward transfers amounting to Kshs. 93,489 from the account. The transfers are suspicious and may have resulted in loss of revenue.

Submission by the Accounting Officer

3628) The Accounting Officer submitted that she noted the observation in regard to debits made in revenue account No. 1184186073 held at Machakos Law Courts. However, it has been realized that the unexplained transfers were caused by bank system errors. The bank Manager Machakos has provided us with detailed explanations as to how the reversals occurred and the situation has been restored to normal. There was no loss of revenue as these were confirmed to be error reversal entries.

Committee Observations and Findings

3629) The Committee observed as follows—

1) That there were unexplained outward transfers amounting to Kshs. 93,489 from the account at Machakos Law Courts as revealed in the revenue bank statement for 2017/2018.
2) The Accounting Officer did not report on the matter neither did he institute any civil proceedings against the officers involved to ensure that they held personally liable for the suspicious transfers as required under Section 202 (1) of the PFM Act, 2012.
3) The Committee also observed that despite the provisions of Section 68 (2) (m) of the PFM Act, 2012 read together with Section 202 (2).
4) The matter was therefore unresolved.

Committee Recommendation

3630) The Committee recommended that:

The Accounting Officer must always ensure compliance with Section 68 (2) (m), and Section 202 (1) of the PFM Act, 2012.

1337. Inadequate Utilization of the Judiciary Financial Management Information System (JFMIS)

3631) Judiciary Financial Management Information System (JFMIS) was procured and implemented to enable Court Stations manage their financial processes efficiently. However, some shortcomings in relation to use were identified as discussed below;

1337.1 Inadequate Utilization of JFMIS system

3632) Our visit to the Court Stations revealed that Judiciary is abandoning and/or underutilizing JFMIS by reverting to manual processing when collecting and accounting for revenue in 2017/2018 thereby not getting value for money on investment.

1337.2 Lack of Integration of the System

3633) Each court runs a separate interface of JFMIS that are manually interfaced. This may result in lack of integration of the System thus hindering prompt decision making brought about by readily available information.

1337.3 Inadequate Audit Trail

3634) From the sample of courts visited, audit trail module has not been activated as witnessed in Mombasa, Shanzu and Nyeri Law Courts. This may result in lack of accountability of the JFMIS system making the system vulnerable to fraudulent activities and data manipulations.

1337.4 Inadequate segregation of duties

3635) A review of access rights as mapped in the JFMIS systems revealed inadequate segregation of duties in some of the Courts. For instance, in Mombasa Law Courts, the Accountant had been allocated following system roles; Data entry, Data modification, Data verification, Posting and approval of transactions. This makes the system vulnerable to manipulations by the user whose system roles are not restricted. This may result in commissioning of errors and fraud.

1337.5 Inadequate data validation

3636) The system does not enforce data validation and therefore, duplicate entries were noted in courts like Mombasa. Further, incomplete entries for Miscellaneous Receipts was observed in Eldoret law Courts raising concerns of data integrity that may impact negatively on the reliability of the information generated by the system. This may have resulted in misstatement of revenue.

Submission by the Accounting Officer

3637) The Accounting Officer submitted that JFMIS is an improved version of the National Treasury District Vote Book System (DVBS) which was modified to incorporate modules to process and record revenue and deposits handled by the Judiciary. The system is still undergoing development to align it with the full Judiciary operations and interface it with IFMIS.

3638) Since the system is still in its inception stage, it is likely to exhibit most of the challenges that have been observed by the auditors. In order to mitigate these challenges, ICT officer across the country have been trained on management of the system and the trained officer include officers from the National Treasury.

3639) The Judiciary wishes to appreciate the observations raised by the auditor and highly welcomes the auditor to continuously review the system and make recommendations on improvements needed as will enhance effective financial management controls in the Judiciary.

Committee Observations and Findings

3640) The Committee observed as follows—

1) The JFMIS was an internal system utilized by the Judiciary to collect revenues. The system should feed into IFMIS on a monthly basis as the official public finance management system established in line with Section 12 (1) (e) of the PFM Act, 2012.
2) The Accounting Officer did not indicate the cost of setting up and maintenance of JFMIS and how it has been useful in enhancing efficiency in the management of public funds appropriated to the Judiciary.
3) The system user was causing inactive audit trail contrary to Regulation 23 (2) (c) of the PFM (National Government) Regulations 2015 which requires the Judiciary to establish transparent financial management and internal control systems.

4) No compelling reasons for inadequate segregation of duties in breach of Regulation 23 (2) (c) of the PFM (National Government) Regulations 2015 which requires the Judiciary to establish transparent financial management and internal control system were advanced by the Accounting Officer.
5) No reasons were advanced for inadequate data validation in contravention of Regulation 23 (2) (c) of the PFM (National Government) Regulations 2015 which requires the Judiciary to establish transparent financial management and internal control systems.

1338. Prior Year Issues

1338.1 2015/2016 Issues

1338.1.1 Financial anomalies at Kericho Courts

3641) Examination of financial records maintained at the Kericho Law Courts disclosed the following unsatisfactory matters;

1338.1.2 Unaccounted for Court Deposits

3642) Examination of the deposit ledger and other Court records indicated that deposits and bonds paid to the Court by convicts totalling Kshs. 13,579,539 had not been refunded as at 30 June 2015. However, an examination of bank statement for deposit account revealed a balance of Kshs. 5,487,737 as at the same date. The resulting difference of Kshs. 8,100,802 represents unaccounted for convict's deposits and bonds.

Submission by the Accounting Officer

3643) The Accounting Officer submitted that the matter is still unresolved but the National Treasury and Judiciary have formed a taskforce to reconcile all the unaccounted for revenue and deposits from past years and come up with the exact amount not accounted with a view of National Treasury providing funding as the amounts were not accounted for by the District Treasuries during delinking of the Judiciary.

<u>The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016</u>.

1338.1.3 Bank Reconciliations

3644) The Kericho Law Courts did not prepare Bank Reconciliation Statements for the deposit and Revenue Cashbooks as at 30 June 2015 contrary to section 5.9.2 of the Government Financial Regulations and Procedures. Although it was indicated that monthly bank Reconciliation Statements had been prepared, none was provided for audit verifications. In the circumstances, it was not possible to confirm the completeness of cash balances for the deposits and revenue cash books.

The Accounting Officer submitted that she has implemented the recommendation by PAC report on FY 2015/2016 and attached the latest bank reconciliation statements for the station.

1338.2 Fraud at Baricho Law Courts

3645) An audit inspection done during the year under review revealed that the Judiciary had lost a total of Kshs. 984,080 due to falsification of documents and fraud by the staff based at Baricho Law Courts and no recoveries had been made at the time of audit. Further, a review of the accountable documents maintained at the Baricho Law Courts confirmed that 12 (twelve) months receipts were missing at the District Treasury at Baricho and addition 30 (thirty) traffic case files were missing without trace in addition to the personal file of the accountant involved.

3646) In addition, Baricho Law Courts did not maintain a deposit cashbook and further no monthly reconciliation statements were prepared. No explanation was provided for this irregularity.

The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016.

1338.3 Discrepancies in Revenue Records

1338.3.1 Naivasha Law Courts

3647) Records maintained at the Station reflects the amounts of surrender to the Headquarters for Court Fines and Court Fees as Kshs. 100,923,964 and Kshs. 11,612,408 respectively. However, records maintained at the Headquarters had surrenders amounting to Kshs. 110,192,341 and Kshs. 10,583,445 for court fines and fees respectively and hence a difference of Kshs. 9,268,377 for court fines and Kshs. 1,028,963 for court fees. The difference between the two sets of records has not been explained or reconciled. In the circumstances, the accuracy and completeness of the revenue collected and surrendered from Naivasha Law Courts would not be confirmed.

The Accounting Officer submitted that she has implemented the recommendation by PAC report on FY 2015/2016.

1338.3.2 Eldoret Law Courts

i) Fines

3648) An audit inspection at Eldoret Law Courts indicated that fines collected in the financial year 2016/2017 were Kshs. 51,984,727. However, the amount of fines surrendered at Headquarters totalled Kshs. 38,070,330 resulting to an unexplained difference of Kshs. 13,914,397. Further, the revenue Collection Control Sheet number 0192365 collected two different amounts of Kshs. 522,360 and Kshs. 1,537,475. In addition, the amount of fees collected could not be confirmed as revenue Collection Control Sheets and Surrenders were not made available for audit. Consequently, the amount of fines and fees collected and surrendered from Eldoret Courts could not be ascertained.

ii) Fees

3649) The fees collected and surrendered by Eldoret law Court was Kshs. 11,070,708 while in fees collection schedule maintained at the Judiciary headquarters showed Kshs. 38,070,330. The difference of Kshs. 26,999,622 was not explained.

The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016.

1338.4 2016/2017 Issues

1338.4.1 Inaccuracies in the Revenue Statement

3650) The opening balance for fines, penalties and forfeitures was indicated as Kshs. 1,470,152,225 whereas the 2015/2016 audited closing balance was Kshs. 1,470,054,680 resulting in unexplained difference of Kshs. 97,545. The Revenue Statement reflects an un-analysed fine, penalty and forfeiture balance of Kshs. 1,083,409,439 as at 30 June 2017. Further, during the year, Judiciary disbursed funds to various Tribunals for the operations. However, no records were provided for audit review to show how much was budgeted for collection and the actual fees collected by the Tribunals. Consequently, it was not possible to ascertain the accuracy of revenue collected from Tribunals.

The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016.

1338.5 Balances Carried Forward Not Yet Transferred

3651) An amount of Kshs. 470,931,785 reflected as balance carried forward and yet to be transferred could not be verified due to lack of certificate of balance and bank reconciliation statement as at 30 June 2017.

The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016.

1338.6 Fees on Use of Goods or Services

3652) The Statement of Receipts and Transfers reflects the figure for Fees on Use of Goods and Services amounting to Kshs. 847,031,435 as at 30 June 2017. However, the supporting schedule from the Headquarters shows an amount of Kshs. 846,724,458 resulting into a variance of Kshs. 306,977. No reconciliation or explanation has been given for the variance.

The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016.

1338.7 Unreconciled balance Shown as Surrender to Exchequer Account

3653) The Statement of Receipts and Transfers reflects an amount of Kshs. 1,677,279,261 as transfers to exchequer account. However, the analysis of Central Bank Revenue statements account 1000209569 reflects an amount of Kshs. 1,268,734,712. The resultant variance of Kshs. 408,544,712 has not been reconciled or explained.

3654) Further, the audit review revealed that there was no bank reconciliation statement prepared for the Judiciary revenue main account Number 1117161749 and the cash book for revenue account Number 111761811 was also not maintained. In view of the above, the accuracy, completeness and presentation of the Revenue Statement balances for the year ended 30 June 2017 could not be ascertained.

The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016.

Other Matters

1339. Unrealistic Budget on Fees from Use of Goods and Services

3655) The previous year budget for Fees on Use of goods or Services and Fines, Penalties and Forfeitures was Kshs. 1,067,605,749 and Kshs. 1,839,982,286 respectively. However, the actual revenue collected was Kshs. 954,904,031 and Kshs. 1,123,835,935 respectively. This resulted in an overall under collection of 11% equivalent to Kshs. 112,701,718 for Fees and 39% equivalent to Kshs. 716,451 for Fines. The under collection was due to unrealistic budgeting.

Submission by the Accounting Officer

3656) The Accounting Officer submitted that the annual budget for revenue for the Judiciary is given by National Treasury when during preparation of budget estimates for the year. The budget is an estimates which is unlikely to be achieved given that collection is dependent on number of cases filed and completed.

The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016.

1340. None Provision of Documents

3657) The judiciary did not provide all supporting documents for amounts reported in statement of Receipts and Transfers as Fees on use of Goods and services and Fines, Penalties and Forfeitures. The Judiciary only provided the Collection Control Sheets for Nairobi region while bank statements for the months of November 2017 to June 2018 for 107 Courts were not provided. Further, Miscellaneous Receipts for fines were similarly not provided for court stations other than for Nairobi region.

3658) In addition, management at Milimani Law Court provided only bank reconciliation statements for July 2017 to September 2017 and March 2018.Under the circumstances, revenues collected and disclosed in statement of receipt and transfers could not be adequately ascertained.

Submission by the Accounting Officer

3659) The Accounting Officer submitted that she had directed that all documents required by the Auditor General's office in carrying out its function be availed when need as per the law and any officer who will fail to adhere to the directive will face disciplinary action. The officers who didn't provide documents have been warned. Further the Judiciary has established a financial reporting unit whose responsibility is to collect all financial reports from stations and prepare the financial statements.

<u>The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016</u>.

1341. Internal Control Deviations due to Financial Malpractices by the Judiciary

3660) Documents reviewed revealed that there were internal control deviations due to various malpractices perpetuated by the Judiciary in 2017/2018 as detailed below.

<u>The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016</u>.

1341.1 Cashbook Not Updated

3661) Review of Cashbooks in Various Court Stations revealed that they were not updated accordingly as detailed below.

<u>The Accounting Officer submitted that the matter was resolved by PAC report on FY 2015/2016</u>.

1341.1.1 Thika Law Courts

3662) It was observed that the station did not record transactions in its revenue and deposit cashbooks for the month of April 2018. Further, receipts amounting to Kshs. 3,406,573 surrendered to the Judiciary Headquarters during the financial year 2017/2018 were not posted to the cashbook.

Submission by the Accounting Officer

3663) The Accounting Officer submitted that the transactions were posted in the revenue cashbook as shown below:

MONTH	CCS NUMBER	CCS AMOUNT	COMMENT AND ACTION TAKEN
APRIL 2018	805073	120,800	This amount has now been posted in the cash book (see Appendix 1- scanned copy of April 2018 cashbook.
,,	805074	82,590	This amount has been posted in the cashbook
,,	805075	473,436	Correct amount as per attached CCS and FO 17 is 73,436= and has been posted in cash book
,,	805076	291,911	This amount has been posted in cash book
,,	805077	347,833	This CCS has been posted in the cash book
,,	805078	359,845	This CCS has now been posted in the cash book
,,	805079	216,809	This CCS has now been posted in the cash book
,,	805080	167,006	Correct amount is Kshs. 167,005= and CCS now posted in cashbook
,,	805083	201,600	Correct amount is Kshs. 201,602= and CCS now posted in cashbook.
JUNE 2018	900768	804,000	This CCS was cancelled due to an error and replaced with CCS 900775 for Kshs. 774,000=.This CCS was posted in the cashbook on 30th June,2018 after other CCS was cancelled .See attached Appendix 4-cash book and scanned copy of CCS 900775 and FO 17.
JANUARY 2018	855022	8,420	This CCS has been posted in cashbook in the month of April 2018
NOVEMBER 2017	848290	114,200	This CCS has been posted in cashbook in the month of April 2018
NOVEMBER 2017	848291	102,288	This CCS has been posted in cashbook in the month of April 2018
OCTOBER 2017	848272	57,354	This CCS has been posted in cashbook in the month of April 2018
JULY 2017	281825	58,481	This CCS has been posted in cashbook in the month of April 2018
		3,406,573	

Extracts of cashbooks are attached.

<u>The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016</u>.

1341.2 Eldoret Law Courts

3664) Eldoret Law Courts did not maintain a cashbook between July 2017 and October 2017. The Court recorded only the balance brought forward as at 1st November 2017 of Kshs. 2,806,874 and it was therefore not possible to verify amounts collected during this period.

Submission by the Accounting Officer

3665) The Accounting Officer submitted that the Cashbook for the months of July to October 2017 is updated and attached is an extract of cash book and bank reconciliation statement.

The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016.

1341.3 Milimani Law Courts

3666) The Cashbook for Milimani Law Courts was not updated with the receipted amount from receipt books not surrendered by the revenue cashiers. Further, the Cashbook was not updated with revenue collected using the 8,000 tribunal fees bank slips not receipted. Without updating the Cashbooks, it was not possible to do bank reconciliations that determines the accuracy of revenue collected.

Submission by the Accounting Officer

3667) The Accounting Officer submitted that the cashbook could not be updated with receipts that had not been surrendered as the amounts collected could not be ascertained. The cashbook has since been updated following the surrender of the receipt books.

The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016.

1342. Variances Between Receipt Voucher (FO17) and Banked Collections – Shanzu Law Courts

3668) Review of Receipt Vouchers (FO17) for Shanzu Law Courts revealed that Kshs. 22,536,613 was collected. However, the bank statement reflects banking of Kshs. 28,494,473 resulting in a difference of Kshs. 5,957,860.00. Therefore, the accuracy and completeness of the total surrenders of revenue for Shanzu Law Courts for 2017/2018 could not confirmed.

Submission by the Accounting Officer

3669) The Accounting Officer submitted that they had analyzed the variances and noted that the banking for June was erroneously captured as Kshs 3,333,694 whereas the correct amount is Kshs 5,025,617 thus the overall variance is Kshs 1,086,140**.** The variances was as a result of money banked but not presented for receipting.

The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016.

1343. Delayed Issuance of Miscellaneous Receipt by Judiciary – Shanzu Law Courts

3670) Amounts collected in September 2017 of Kshs. 4,148,784 as per Collection Control Sheet number 248424 compared with Kshs. 1,760,784 as per Receipt Vouchers (FO17), resulted in a difference of Kshs. 2,388,000. This was due to delayed issuance of Miscellaneous Receipt done in May 2018 eight months later. The cause of the delay in issuing miscellaneous receipt has not been explained.

Submission by the Accounting Officer

3671) The Accounting Officer submitted that she agrees there was delay in issuance of Miscellaneous Receipt which was because the documents submitted by the station were not complete and were returned to the station. The station resubmitted the complete documents late. However, the revenue was accounted for in the correct period.

The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016.

1344. Variances Between Collection Control Sheets and Cashbook – Nyeri Law Courts

3672) Examination of the financial records maintained at Nyeri law Courts revealed an unexplained variance of Kshs. 160,747 between Collection Control Sheet figure of Kshs. 508,188.00 and Cash Book figure of Kshs. 668,935 for August 2017. In the circumstances, the accuracy and completeness of the collected and surrendered revenue could not be confirmed.

Submission by the Accounting Officer

3673) The Accounting Officer submitted that the figure of Ksh 668,935 was the surrender for September 2017 and the figure of Ksh 508,188 is the surrender of August 2017.The Court station erroneously recorded in the cash book the figure of Ksh 668,935 twice. This casting error has since been corrected in the court station cashbook and bank reconciliation statement attached.

The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016.

1345. Variance Between Statement Revenue Figure and Collection Control Sheet Figure for Fines and Forfeitures – Mombasa Law Courts

3674) The statement of revenue and revenue supporting schedule indicate that the total revenue for fines and forfeitures collected during the year totalled to Kshs. 33,923,326 while revenue from collection controls sheets for the same period totalled to Kshs. 32,980, 002 resulting to an unexplained variance of 943,324.

Submission by the Accounting Officer

3675) The Accounting Officer submitted that they had reviewed and analysed the HQ schedule vs the Court station schedules and noted that the differences were as a result of timing/recording differences in the court station schedules. The financial statements are prepared at the HQ which has schedules agreeing with CCS and MR`s issued. This schedules and MR`s are available for review at the HQ. Find attached analysis of CCS`s from Mombasa Law courts which indicate no variance.

The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016.

1346. Inadequate Data to Identify Source and Destination of Funds Transfer

3676) The transactions in the bank statements lacked references to the payees. This made confirmations of receipts to the bank statement difficult leading to lack of audit trail.

Submission by the Accounting Officer

3677) The Accounting Officer submitted that the Judiciary Management is addressing this matter with KCB Bank Ltd to ensure that the Payee details are captured in the Bank statement.

The Accounting Officer submitted that the matter was deliberated by PAC report on FY 2015/2016.

3678) The Committee observed that Paragraph 1347 to 1348 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

DONOR FUNDED PROJECTS

JUDICIAL PERFORMANCE IMPROVEMENT PROJECT - IDA CREDIT NO. 5181-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1349. Special Account Reconciliation

3679) The special account reconciliation statement prepared by the National Treasury shows total withdrawals from the projects account maintained at the Central Bank of Kenya was USD 14,351,126 equivalent to Kshs. 1,477,294,687. However, projects financial statement shows total receipts from IDA for the year as USD 11,935,651 or Kshs. 1,227,551,278 resulting in unexplained difference between the two sets of records of USD 2,415,475 (Kshs. 249,743,409).

3680) In addition, the Special Account statement for the year ended 30 June 2018 reflects USD 2,172,378.47 under amounts withdrawn and not yet claimed. No explanation has been provided as to why the expenditure returns for USD 2,172,378.47 have not been submitted to the National Treasury. In the circumstances, the accuracy of the special account balances as at 30th June 2018 could not be confirmed.

Submission by the Accounting Officer

3681) The Accounting Officer submitted that it was true that the Special Account Reconciliation Statement prepared by the National Treasury shows total withdrawals from the project account to be USD 14,351,126 equivalent to Kshs. 1,477,294,686.70 while the projects Financial Statement shows total receipts from IDA for the year as USD 11,935,651 or Kshs. 1,227,551,278. The difference between the two figures is because the National Treasury used the figures in the projects withdrawal requests while the project's financial statement used figure of actual exchequer receipts.

3682) At the beginning of the FY 2017/18, all of the JPIP funding was categorized as revenue in the budget estimates. The project management requested for a Direct Payments module be included to hasten payment of large contractors. This necessitated re-categorization of the funding into two; AIA and Revenue. This was undertaken in the course of the financial year and approved in the Supplementary II of the FY 2017/18. Also during the financial year, the government austerity measures reduced the available revenue budget by Kshs. 1 billion, leaving the project budgeted revenue less than the planned expenditure.

3683) As these changes were being made project management had already requested for the funds from the Central Bank account and the same had been transferred to the designated account. By the time the project was to initiate requisition of exchequer, the budget had already been converted to AIA and thus there were inadequate funds in the revenue budget to cover the requisition. The funds were later withdrawn and utilized in the FY 2018/19 when the printed budget provided for an adequate revenue allocation.

Committee Observations and Findings

3684) The Committee observed as follows—

1) The Accounting Officer did not submit the expenditure project returns to the National Treasury within the required timelines.

2) The Accounting Officer did not reconcile the special project account in contravention of Section 68 (2) (b) of the PFM Act, 2012.
3) The unexplained difference between the two sets of records of USD 2,415,475 (Kshs. 249,743,409) was attributed to treasury using project withdrawal request instead of actual receipts.
4) The Project requests by the National Treasury were not availed for audit verification.
5) The matter therefore remained unresolved.

Committee Recommendations

3685) The Committee recommended that—

1) **The Accounting Officer should ensure compliance with Section 68 (2) (b) of the PFM Act, 2012.**
2) **The National Treasury should avail the project requests within three (3) months of the adoption of this report.**

1350. Understatement of Rent Payments

3686) The statement of receipts and payments reflects Kshs. 19,157,021 as payment for rental of produced assets and pending bills on the same account of Kshs. 244,272.05 giving a total expenditure on rent for the year of Kshs. 19,401,293.05. However, a review of related records showed that the Project had engaged an insurance company for rental of office premises and also paid rent for the National Council of Law Reporting at other premises with annual rent cost for the two offices amounting to Kshs. 30,711,063.11. Consequently, the rental expenditure for the year reflected in the financial statements is understated by Kshs. 11,309,770.41.

Submission by the Accounting Officer

3687) The Accounting Officer submitted that the auditor's observation was noted and the necessary amendments were made in the financial statements. The anomaly had been caused by mis-posting of rent for Judiciary Training Institute (JTI) to training allocations which was corrected and the financial statements amended to reflect the correct position being that the expenditure on rent for the FY amounts to Kshs. 30,711,063.11.

Committee Observations and Findings

3688) The Committee observed as follows—

1) That, the Accounting Officer corrected the errors for the audit period for the year through journals which were availed for audit verification;
2) The Accounting Officer had engaged an insurance company for rental of office premises at an undisclosed annual rent.
3) The Judiciary did not disclose the premise for which it paid rent for National Council of Law Reporting, and the annual rent amount payable.
4) The Accounting Officer did not explain reasons for not reflecting rental expenditures totaling Ksh. 11,309,770 in the statement.

5) The matter was resolved.

1351. Fixed Asset Register

3689) The statement of receipts and payments for the year ended 30 June 2018 reflects a cumulative expenditure on acquisition of non-financial assets of Kshs. 1,710,120,609. It was however, noted that the Project did not maintain a fixed asset register making it difficult to verify the physical existence of assets or confirm the value, location, ownership and security of the assets acquired under the project over the years. Also, the project financial statement did not include a summary of the fixed assets register as is required under the reporting template issued by the Public Sector Accounting Standards Board. No explanation has been given for the failure to maintain a fixed asset register.

Submission by the Accounting Officer

3690) The Accounting Officer submitted that it was true that at the time of audit the Judiciary had not finalized the preparation of the Asset Register. The Asset Register was later finalized within the year and is available for audit review. A summary of the Fixed Asset Register in the prescribed format was attached for perusal by the Committee.

Committee Observations and Findings

3691) The Committee observed as follows—

1) The fixed asset register provided did not include the serial no or title number of the asset. Therefore, the existence of the assets could not be confirmed since the fixed asset register was not conclusive.
2) The Accounting Officer did not provide valuation report in support of the value of land reflected in the fixed asset register.
3) There was dereliction of duty on the part of the Accounting Officer for failure to maintain a complete fixed asset register for the project in contravention of Regulation 143(1) of the PFM (National Government) Regulations 2015, and thereby exposing public assets to fraud in violation of Section 194(5) of the PFM Act 2012.
4) The matter was unresolved.

Committee Recommendation

3692) The Committee recommended that—

1) **The Accounting Officer should ensure that the fixed assets register is amended to include the serial no or title number of the asset, and resubmitted for audit verification.**
2) **The Accounting officer should ensure that the valuation report is provided for audit verification.**
3) **The Accounting Officer should ensure that the Judiciary maintains a complete asset register in compliance with Section 194(5) of the PFM Act, 2012 and Regulation 143(1) of the PFM (National Government) Regulations 2015.**

1352. Low Absorption of Project Funds

3693) The financing agreement Credit No.5181 between the Republic of Kenya and International Development Association (IDA) was signed on 5 December, 2012 and revised on 16 May 2016. The objective of the project was to improve the performance of the Judiciary to provide services in the project areas in a more effective and accountable manner. The project consists of three parts namely, court administrative and case management, Judicial training and staff development and court infrastructure. The total project funding was USD 120,000,000 (approximately Kshs. 10,500,000,000).

3694) The closing date for withdrawal of the project funds as per the financing agreement was 31 December 2018 but was later extended to 30 October 2020. However, as at the time of the audit only Kshs. 5,160,969,500 or 49% out of the total available funds under the project of Kshs.10.5 billion had been withdrawn to finance the project activities. In spite of this poor absorption of the projects funds, there were contractors' certificates totaling to Kshs. 113,679,607.35 which had been approved for payments but were yet to be settled.

3695) It has not been clarified why the management has not utilized the available project funds to implement the project activities and settle the pending claims which may attract interest and other claims. Further, considering that it has taken about six years to utilize approximately half of the funds available under the project, it is unlikely that the remaining balance will be utilized within the remainder of the extended credit period which is less than two years.

3696) In addition, a review of the project's payments records showed that cumulatively a total of Kshs. 5,109,197,658 had been paid under the project comprising of Kshs. 2,584,951,229 for purchase of goods and services and Kshs. 2,524,246,429 for construction costs. This shows that the ratio of purchase of goods and services to construction costs is about 1:1. If this trend continues, the remaining fund balance of Kshs. 5,390,802,342 may not be adequate to finance the remainder of the project activities. As a result, the project's objectives and goals may not be achieved as planned.

Submission by the Accounting Officer

3697) The Accounting Officer submitted that it was true that there was underutilization of budget funds during the earlier years of the project due to delays in exchequer releases and the lengthy procurement process.

3698) It is also true that contractors' certificates totaling to Kshs 113,679,607.35 were pending as at the close of the FY 2017/18 due to budget constraints. This was occasioned by reduction of the budget allocation by Kshs. 1Billion. The pending bills amounting to Kshs 113,679,607.35 were settled as the first charge in the subsequent FY 2018/19 and did not attract interest.

3699) In order to improve utilization of the remaining balance, the Judiciary and the development partner have agreed to concentrate on the already existing contracts to completion. The completion of these contracts (projects) does not require further procurement and thus the delays caused by the lengthy procurement process will not be experienced and the objectives of the project will be met.

3700) The project has three components namely; court administration and case management, Judicial training and staff development, and access to justice (court infrastructure). The first two components, court administration & case management and Judicial training & staff development, have now been fully implemented and therefore the remaining balance is for the third component, access to justice (court infrastructure). Hence, the 1:1 ratio of purchase of goods and services to construction costs will no longer arise.

Committee Observations and Findings

3701) The Committee observed as follows—

1) The explanation given by the Accounting Officer for the underlying reasons behind the slow utilization of project funds which, has compromised the achievement of the projects objectives and goals as planned was unsatisfactory.
2) The Accounting Officer did not give reasons why contractors' certificates totaling to Ksh. 113,679,607.35 approved for payments had not been settled yet there were project funds lying idle.
3) The matter was unresolved.

1353. Construction and Refurbishments of 28 Law Courts

3702) During the year ended 30th June 2018, the Judiciary had entered into contracts for construction and renovation of 28 Law courts across the country at a total contract sum of Kshs. 6,948,681,943. As at the time of the audit, a total of Kshs. 2,258,293,896.35 had been paid to the contractors. A review of the project files and physical verification of selected law courts construction projects revealed the following unsatisfactory matters:

1353.1 Invalid Performance Security Bonds

1353.1.1 Expired Performance Security Bond

3703) In accordance with the terms and conditions of the contract, each contractor was supposed to submit performance bond to secure the employer in case of failure to implement the project as provided in the signed contract agreements. However, a review of the project records revealed that a total of thirteen (13) performance bonds submitted by the contractors had expired and were yet to be renewed.

1353.1.2 Performance Security Bonds Issued by a Bank under Receivership

3704) In addition, ten (10) performance bonds valued at Kshs. 216,491,929 that were availed for audit review were issued by a local bank under receivership and its subsidiary, Micro Finance, their validity is therefore doubtful.

3705) In the circumstances, contractors did not comply with section 50.1 of the signed contract agreements and Section 142(1) and (2) of the PPAD Act, 2015 on performance bonds and the employer was also at fault for accepting invalid bonds and may not be able to recover the Kshs. 216,491,929 guaranteed in case of default.

Submission by the Accounting Officer

3706) The Accounting Officer submitted that at the time of signing contracts, all contractors submitted valid performance security bonds. Because of the delays in completion of the projects, the contractors requested extension of time and upon approval of the extension of time, the contractors were asked to submit new valid performance bonds.

3707) Following the collapse of Chase bank, the contractors who had performance bonds from Chase Bank were requested to find alternative guarantors for the performance bonds. And this was a condition for extension of contracts to which all the contractors complied as per attached copies of new performance bonds. This did not apply to the completed projects that is Chuka, Makindu, Muhoroni, Nyamira and Oyugis. Copies of the valid performance security bonds for the 5 contractors and completion certificates for the 5 courts were attached for perusal by the Committee. Therefore, the Judiciary is fully covered by these valid performance bonds in case of default.

Committee Observations and Findings

3708) The Committee observed as follows—

1) The five (5) contractors who had performance bonds from Chase Bank which, has been under receivership since April 7, 2016, were requested to find alternative guarantors for the performance bonds.
2) The Accounting Officer contravened Section 142 (1) and (2) of the PPAD Act, 2015, and Clause 50.1 of the signed contract agreements by allowing an invalid performance security bond from a local bank under receivership thereby exposing public funds.
3) The Accounting Officer did not provide the criteria for the identification of stations where new courts would be constructed, and existing ones renovated.
4) The matter was unresolved.

1353.2 Delayed Completion of the Projects

3709) A physical verification of sampled projects carried out in October 2018 and a review of the project's files showed that there has been delay in project completion affecting he projects. Construction of the first batch of nine (9) law court projects commenced in 2015 and were expected to be completed by September 2016 but at the time of the audit, only two projects i.e. Kigumo and Makindu Law Courts had been completed.

3710) Construction of the second batch of six (6) projects started in 2016 and were to be completed by September 2017 but none had been completed by the time of the audit.

Similarly, construction of the rest of the projects except Kajiado Law Courts, which was awarded in 2018, commenced in 2017 and all should have been completed by October 2018 but by the time of the audit none had gone beyond 50% overall progress. In addition, most contractors were not on site.

3711) The management has explained that the delay is attributed to failure to pay certified works on time owing to delays in release of exchequer funds from the National Treasury. It was noted that the contract period for most of the projects has been extended following the extension of Project end date to October 2020. However, delayed project completion has denied the Judiciary the benefits envisaged under the project and could also lead to cost overruns due to time driven costs.

Submission by the Accounting Officer

3712) The Accounting Officer submitted that the delay in project implementation is attributed to failure to paying certified works on time due to delays in release of exchequer funds from the National Treasury, frequent reductions of the budget allocations and the conversion of loan budget from full revenue to part AIA during the FY 2017/18.

3713) It is true that at the time of audit, the nine projects (Kigumo, Chuka, Engineer, Vihiga, Nyando, Molo, Oyugis, Nyamira, Muhoroni) which had been initiated in 2015 had not been completed but were in advanced stages of completion with all being at above 90%. All these projects have since been completed and handed over. Completion certificates of the five (5) projects were attached for perusal by the Committee.

3714) The other six projects (Nakuru, Siaya, Garissa, Makindu, Nanyuki and Kibera) that were initiated in 2016, had not been completed because of changes arising in structural designs. Makindu has since been completed and handed over. The other five are over 95% completion.

3715) Similarly, for the rest of the projects which were initiated in 2017, the contractors resumed site after payments were made for the certified amounts. It is expected that all these contracts will be completed before expiry of the extended project periods.

Committee Observations and Findings

3716) The Committee observed as follows—

1) That the explanation given by the Accounting Officer regarding the hiring of the Legal Counsel was not satisfactory.
2) There was need for the projects to be visited and monitored by the Committee and the Auditor General to ensure compliance with the contract terms and the response provided;
3) The explanation advanced by the Accounting Officer for the delay in the completion of the law courts thereby delaying, and denying justice to the people of Kenya was unsatisfactory; and

4) The matter was therefore unresolved.

Committee Recommendation

3717) The Committee recommended as follows -

Recommend to National Treasury must allocate resources for the completion of all stalled projects (law courts). In doing so, National Treasury should carry out an audit on the stalled projects

1354. Irregular Engagement of a Legal Counsel

3718) The statement of receipts and payments for the year reflects a figure of Kshs. 63,181,280 for consultancy services. Included in this figure payments in respect of legal fee of Kshs. 5,400,000 paid to a legal counsel to Deputy Chief Justice (DCJ). It was however noted that the engagement was not subjected to a competitive process to determine the suitability of the candidate for the job. In addition, there was no identified knowledge gaps within the Judiciary to necessitate the hiring of a legal counsel. In the circumstances, it has not been possible to confirm that the payment of Kshs. 5,400,000 was a proper charge to the Project's Funds.

Submission by the Accounting Officer

3719) The Accounting Officer submitted that the legal counsel is one of the consultants who were engaged to facilitate the operationalization of the DCJ's office. Therefore, the recruitment of a legal counsel was not a new one since he had been engaged by the Judiciary on an earlier contract which was financed by UNDP. On the expiry of UNDP funding, the Judiciary requested the World Bank to fund this contract for a period of one year as the modalities were being put in place to fully equip the DCJ's office. The World Bank gave a no- objection to the request and requested the Judiciary to initiate negotiations with the individual in accordance with the financing agreement**.** Copies of requests from user department and emails granting no objection from World Bank were attached for perusal by the Committee.

3720) The Accounting Officer appointed a negotiation committee which after negotiation with the officer came up with applicable Terms of engagement as per the project financing agreement. Attached are copy of letter of appointment for negotiation committee and minutes of the committee.

Committee Observations and Findings

3721) The Committee observed as follows—

1) The explanation given by the Accounting Officer with regard to the hiring of a Legal Counsel was satisfactory.
2) The matter was resolved.

1355. Irregular Award of Contract for Supply of Motor Vehicle

3722) On 8 August 2014 Firm B were awarded a contract for the supply and delivery of a motor vehicle vide contract no. JPIP /NCB /02 /2013-2014 at a cost of Kshs. 10,500,000 after emerging as the lowest evaluated bidder out of the four firms which submitted bids namely; Firm A Kshs. 3,400,000, Firm B Kshs. 10,500,000, Firm C Kshs. 9,520,000 and Firm D Kshs. 11,276,000. It was further noted that Firm C and Firm D were not subjected to financial evaluation as they were considered non-responsive.

3723) After the contract award and notification to Firm B, an addendum was given to the supplier to include parcel rack with covers and reading lights; reclining seats with foot rest; Mechanical Ram for wheel chair access; Individual charging sockets and WIFI systems and curtains on the vehicle, this revised the contract amount from Kshs. 10,500,000 to Kshs. 11,671,600 an increase of Kshs. 1,171,600.

3724) This contravened Section 53(1) of the Public Procurement and Asset Disposal Act 2015. In addition, management wrote a letter to Firm B on 30 March 2015 and explained that the contract award of Kshs. 10,500,000 was tax exclusive, and so the contract sum was adjusted upwards again to include the 16% VAT amount of Kshs. 1,680,000. This was also done in violation of section 50(2)(a) of the public procurement and disposal regulations, 2006. In the circumstances, the resultant increase of Kshs. 2,625,000 arising from the addendum and VAT adjustment was therefore irregular.

Submission by the Accounting Officer

3725) The Accounting Officer submitted that the contract between the Judiciary and CMC was dated August 2014 which falls under the purview of the Public Procurement and Disposal Act, 2005 and not the Public Procurement and Asset Disposal Act, 2015 as referred to by the auditor.

3726) During implementation of the contract, the user department (JTI) after viewing the proposed bus requested that it be customized to be compliant for use by people with disability to conform with Section 23 (1) of the Persons with Disability Act, 2003. The request was forwarded to the accounting officer who sought advice for mechanical variations for additional works from the Ministry of Transport and Infrastructure on the required changes. The Ministry of Transport and Infrastructure vide letter reference no. ME/QMS/HQ/184/vol. 1/162 dated 15th April 2015 approved the proposed changes in the body construction of the bus.

3727) The request was then submitted to the tender committee pursuant to the transition provision in Section 183, 3rd schedule of the Public Procurement and Asset Disposal Act, 2015 which required that procurement proceedings commenced before the commencement date of this Act, shall be continued in accordance with the law applicable before the commencement of this Act.

3728) The request from the user department and approval by the Ministry of Transport and Infrastructure were then submitted to the Tender Committee for approval. Judiciary's tender committee held on 15th May 2015 approved the variation of Kshs. 1,171,600 to cater for the changes in bus body works. Copies of minutes of the Judiciary Tender Committee was attached for perusal by the Committee. This variation was within the allowable 25% threshold.

Committee Observations and Findings

3729) The Committee observed as follows—

The explanation given by the Accounting Officer regarding the purchase of the vehicle was justified and persuasive.

The matter was resolved.

1356. Irregular Reimbursement of Out-of-Pocket Expenses

3730) An amount of Kshs. 10,697,505 was paid to judiciary staff members as out of pocket reimbursement of expenses incurred in respect of domestic travel and subsistence allowances. It is not clear why imprests were not issued to the officers before travel to ensure proper accountability. In the circumstances the validity of the reimbursements totaling to Kshs. 10,697,505 could not be confirmed.

Submission by the Accounting Officer

3731) The Accounting Officer submitted that the observation by the auditor is correct that the Project reimbursed imprest claims totaling Kshs. 10,697,505 which was caused by lack of exchequer at the time of undertaking the planned activities. The funded activities related to case backlog reduction of the Court of Appeal circuits which had already been gazetted and thus could not be rescheduled. This necessitated the judicial officers to seek reimbursements on return.

Committee Observations and Findings

3732) The Committee observed as follows—

1) The explanation given by the Accounting Officer regarding the Irregular Reimbursement of Out-of-Pocket Expenses was unsatisfactory.
2) The Judiciary Members were reimbursed Ksh. 10,697,505 as out-of-pocket after the event contrary to the provisions of Regulation 91 of the PFM (National Government) Regulations, 2015.
3) The matter was therefore unresolved.

Committee Recommendation

3733) The Committee recommend that—

The Accounting Officer should always ensure compliance with the Regulation 91 of the PFM (National Government) Regulations, 2015.

1357. Un-accounted Court Users Committee (CUC) Grants

3734) Included in the imprests and advances figure of Kshs. 91,497,870 as at the close of the year is Kshs. 27,054,648.50 representing A.I.E.'s issued to Court stations which had been outstanding for more than twelve months. It was not clear why the Court stations had not submitted expenditure returns as required. In the circumstances, it has not been possible to confirm that the grants were used for the intended purposes.

Submission by the Accounting Officer

3735) The Accounting Officer submitted that the observations made by the auditors are true. The activities ran up-to the closure of the financial year however; they were subsequently accounted for in the FY 2018/19. Copies of surrender schedules were attached for perusal by the Committee. All the grants activities were authorized by the CRJ and the activities were monitored for compliance.

Committee Observations and Findings

3736) The Committee observed as follows—

1) The Court Users Committee grants totaling Kshs. 27,054,648.50 were surrendered in the year 2018/19;
2) The Accounting Officer should be reprimanded for failing to ensure timely submission of expenditure returns as the responsibility for any expenditure incurred from delegating Authority to Incur Expenditure (AIE) remains with the Accounting Officer; and
3) The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer, National Treasury should reprimand the Accounting Officer for the Judicial Service Commission (JSC) for failure to ensure timely submission of expenditure returns.

1358. Unremitted VAT and Withholding Taxes

3737) A review of schedules availed in support of construction projects' payments for the year revealed that a total of Kshs. 50,222,813.60 deducted from the construction payments as 6% VAT and 3% income tax were not remitted to Kenya Revenue Authority as required. Further, included in the pending bills as at 30 June 2018 is an amount of Kshs. 6,839,806.95 in respect of unremitted P.A.Y.E. taxes that remained unpaid for five months. In the circumstances, the project is likely to incur interest and penalties which should not remain a charge to project funds.

Submission by the Accounting Officer

3738) The Accounting Officer submitted that during the fourth quarter of the financial year 2017/18, the JPIP funding was converted from revenue to AIA and thus the only applicable mode of payment was 'Direct Payments' system which is not integrated to KRA system for processing and payment of taxes. Thus accumulating the taxes arising from payments for various suppliers of goods and services under the project.

3739) A consultative meeting was held on 16th June 2018 between JPIP and other projects in the country funded by the World Bank, World Bank representatives and KRA to deliberate on the matter. Copies of email convening the meeting and meeting attendance lists were attached for perusal by the Committee. It was resolved that the National Treasury ensures that there is sufficient budget allocation under revenue mode for purposes of paying taxes. Subsequently, all the accumulated taxes formed the first charge of the FY 2018/19 budget and were all cleared.

Committee Observations and Findings

3740) The Committee observed as follows—

1) That all the taxes totaling Kshs. 57,062,620.55 were surrendered in the year 2018/19;
2) The Accounting Officer committed an offence under Section 95 of the Tax Procedure Act, 2015 by failing to pay tax by the due date and should be held liable; and
3) The Committee marked the matter as resolved.

Committee Recommendation

3741) The Committee recommended that—

The Accounting Officer, National Treasury should reprimand the Accounting Officer for the Judicial Service Commission (JSC) for failure to ensure timely submission of expenditure returns.

Other Matters

1359. Budget and Budgetary Performance

1359.1 Receipts

3742) The project had budgeted to receive proceeds from borrowings of Kshs. 2,997,446,289 in 2017/2018 but actual receipts amounted to Kshs. 1,405,020,784 resulting into a shortfall of Kshs. 1,592,425,505 or 53%. The shortfall was attributed to budget cut by the National Treasury hence most of the projects activities were not implemented as initially planned.

<u>The Committee was concerned that the Accounting Officer did not provide any contingency measures put in place to address the shortfall of Ksh. 1,592,425,505.</u>

1359.2 Payments

3743) The Project had budgeted to spend an amount of Kshs. 2,997,446,289 in the year under review but actual expenditure totaled Kshs. 1,353,653,889 resulting to an under expenditure of Kshs. 1,643,792,400 or 55%. The shortfall in expenditure was again attributed to the budget cut by the National Treasury thereby affecting implementation of planned activities for the year.

Submission by the Accounting Officer

3744) The Accounting Officer submitted that she concurs with the auditor's observations and the Judiciary has put in place measures to ensure that the planned activities are implemented within the project extended period to October 2020. The Committee was concerned that the Accounting Officer did not provide any strategic measures put in place to address expenditure gaps attributed to budget cuts.

3745) The Committee observed that Paragraph 1360 to 1361 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

47.0. ETHICS AND ANTI-CORRUPTION COMMISSION

FINANCIAL STATEMENTS FOR VOTE 1281

Mr. Twalib Mbarak, the Accounting Officer for the Ethics and Anticorruption Commission (Vote 1281) appeared before the committee on 27th February 2020 to adduce evidence on the Audited Financial Statements for the Ethics and Anticorruption Commission (Vote 1281) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. P. Mwaniki Gachoka - Commissioner
2. Dr. Dabar Abdi Maalim - Commissioner
3. Mr. Willis Wasala - Deputy Director Budget and Planning
4. Mr. David Kitoo - Director Legal
5. Mr. Yassin Amaro - Spokes Person
6. Mr. Stephen Karuga - Personal Assistant to CEO

1363. Receivable from Exchange Transactions – Compulsory Acquisition of the Integrity Centre Building.

3746) As disclosed in note 13 to the financial statements, included in the statement of financial position as at 30 June 2018 was an amount of KSh.1,518,000,000 receivable from exchange transactions - National Land Commission (NLC). This amount represents funds remitted by the Ethics and Anti-Corruption Commission to the National Land Commission for compulsory acquisition of the Integrity Centre Building which houses the Commission's offices. As disclosed at note 24 to the financial statements, the idea of acquiring a headquarters for the Ethics and Anti-Corruption Commission started way back in 1999 by the management of the then Kenya Anti-Corruption Authority. The aim was to have a permanent home for the anti-corruption body and to save on the large budget of paying office rent.

3747) Following consultations with the Departmental Committee of National Assembly on Legal Affairs, the Ethics and Anti-Corruption Commission was advised to consider compulsory acquisition of Integrity Centre vide the National Assembly letter ref. KNA/JLA/OC/2017/VOL.II dated 3 April 2017. In light of this advice, the Ethics and Anti-Corruption Commission vide letter ref.EACC.1/1 VOL.VII (107) dated 10 April 2017 sought advice from the National Treasury upon which the National Treasury vide letter ref. DV/ES1271/16/01/A/19 dated 13 April 2017 advised the Ethics and Anti-Corruption Commission to liaise with the Attorney General to request the National Land Commission to acquire the property on their behalf in accordance with Section 107 (1) of the Land Act, 2012. Consequently, vide letter ref. EACC. 1/1/VOL

III (111) dated 2 May 2017, the Ethics and Anti-Corruption Commission requested the Office of the Attorney General and Department of Justice to instruct the National Land Commission to commence the compulsory acquisition of the Integrity Centre. The Office of the Attorney General and Department of Justice in a letter dated 12 July 2017 instructed the National Land Commission to compulsory acquire the Integrity Centre described as LR No. 209/1069 on behalf of the Ethics and Anti-Corruption Commission in accordance with the provisions of Part VIII of the Land Act, 2012. The National Land Commission consequently commenced the process of acquisition of the property in December 2017.

3748) According to the valuation report based on inspection conducted on 14 February 2018, the National Land Commission valued the property at KSh.1,543,382,916 as detailed below.

Component	Acreage	Value	15% Statutory Allowance	Total Value (KSh.)
Land	1.203	691,725,000	103,758,750	795,483,750
Improvements		650,347,101	97,552,065	747,899,166
Total Compensation		**1,342,072,101**	**201,310,815**	**1,543,382,916**

3749) As at 30 April 2018, the Ethics and Anti-Corruption Commission had remitted a total of KSh.1,518,000,000 to the National Land Commission towards the settlement of the property, leaving a balance of KSh.25,382,916. Additional information indicates that vide Gazette Notice Vol. CXX – No.113 dated 14 September 2018, the National Land Commission transferred and vested the property in the Principal Secretary – National Treasury, to hold in trust for the Ethics and Anti-Corruption Commission in accordance with Section 121 of the Land Act, 2012.

3750) However, although the National Land Commission in their letter ref. NLC/V&T/AG/001(13) dated 27 June 2017 claim to have requested for valuation services from the Ministry of Lands and Physical Planning, valuation of the property was done by the National Land Commission. No evidence was availed for audit review to clarify whether the Ministry of Lands and Physical Planning played any role in the valuation of the property despite the fact that the Department of Land Valuation in the Ministry is mandated to provide valuation services which forms a basis for revenue collection or the determination of appropriate market rents and market values for leasing or sale and purchase for and by all National and County Government Departments, Commissions, Agencies, Parastatals, Institutions of Higher Learning, Public Schools and all public bodies, in order to protect the monetary interest of the Government.

Submission by the Accounting Officer

3751) The Accounting Officer submitted that the EACC vide a letter Ref. EACC.1/1/1(106) dated 17th October 2018 wrote to NLC to provide copies of their letter to the Ministry of Lands and Physical Planning and their response in relation to the Ministry's role in the valuation of the property.

3752) In response, NLC submitted to EACC the following correspondences:

i. A letter Ref: NLC/V&T/AG/001(3) dated 20th June 2017 from Chairman NLC addressed to the Principal Secretary, Ministry of Lands and Physical Planning. The letter requested the Ministry to assist in assessment and valuation exercise
ii. A letter Ref: NLC/V&T/AG/001(17) dated 24th July 2017 from Chairman NLC addressed to the Principal Secretary, Ministry of Lands and Physical Planning. NLC indicated that they were issued with express instruction by the Office of the Attorney General and Department of Justice to acquire the property pursuant to Section 107(1) of the Land Act 2012. In this regard, the instruction reversed the earlier request for assistance with the assessment and valuation exercise.

Copies of the above correspondence were availed to the auditors during the audit exercise upon their request.

3753) He submitted that Section 108(1) of Part VIII of the Land Act 2012 gives NLC the mandate to do all things that may be reasonably necessary to ascertain whether the land is suitable for the intended purpose. Further, Section 113 empowers NLC, in determining the compensation award under Compulsory Acquisition, to determine among other things the following: -

1. The size of the land to be acquired;
2. The value, in the opinion of the Commission, of the land; and
3. The amount of the compensation payable.

Valuation of the property

3754) According to a Valuation Report by NLC, the property (Integrity Centre) situated on L.R 209/1069, was valued at KES. 1,543,382,916.15/-. This was provided for purposes of compulsory acquisition and compensation. The Report was prepared and signed by Joash Mogambi Oindo who is a Registered and Practicing Valuer based on an inspection conducted on 14th February 2018.

3755) Consequently, NLC vide a letter NLC/V &T/AG/001 dated 24th April 2018 requested EACC to remit the balance of KES. 1,293,382,916/- (in addition to the KES. 250,000,000/- that EACC had remitted to the NLC towards compulsory acquisition of Integrity Centre on 30th June, 2016.

3756) EACC remitted KES. 1,268,000,000/- to the NLC through the Compensation Fund Account No. 0132980000 domiciled at the National Bank of Kenya on 11th May, 2018, leaving a further balance of KES. 25,382,916/- which is yet to be settled.

Conclusion of the Acquisition

3757) Evidence of conclusion of the compulsory acquisition process include:

i. The Notice of Taking Possession under Section 120(1) of the Land Act 2012; Ref. NLC/V&T/AG/001 and dated 14th August, 2018 was issued to M/s Tegus Limited by the NLC with a copy to EACC, Chief Land Registrar, Director of Surveys, and Director of Public Lands Information Management System - PLIMS.
ii. NLC vide a letter Ref. NLC/CHAIRMAN/VOL XXIII/495 dated 15th August, 2018 notified the Acting Chief Land Registrar that it had acquired the property for EACC. Further, M/s Tegus Limited had submitted the original Title for vesting to the Cabinet Secretary – Treasury in accordance with Section 121 of the Land Act, No. 6 of 2012.
iii. On 14th September, 2018 NLC vide a Kenya Gazette Notice No. 9487, Vol. CXX-No 113 transferred and vested the Property to in the Principal Secretary – The National Treasury.

Plenary

During plenary, the Committee noted that: -

i. The land is registered under National Treasury rather than EACC
ii. Tegus Limited bought the Land at Ksh.400M and sold at Ksh.1,543,382,916.15 three years later.

Committee Observations and Findings

3758) The Committee observed and found that:

1) The Committee observed there was conflict of interest when the National Land Commission assumed valuation of the land that it intended to buy rather than obtaining services of another independent valuer such as the Ministry of Lands and Physical Planning;
2) However, the explanation given by the Accounting Officer that due to compulsory acquisition by vendors, the said land appreciated from Ksh.400m to Kshs1,543,382,916.15 in a span of three years was satisfactory; and
3) The issue was marked as resolved.

Committee Recommendation

3759) The Committee recommended that:

The matter be resolved.

48.0 NATIONAL INTELLIGENCE SERVICE 1281

FINANCIAL STATEMENTS FOR VOTE 1281

Unqualified Opinion

3760) The Committee observed that Paragraph 1369 to 1374 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

49.0. OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS

FINANCIAL STATEMENTS FOR VOTE 1291

Mr. Noordin Haji, the Accounting Officer for the Office of Director of Public Prosecution (Vote 1291) appeared before the Committee on 16th October 2020 to adduce evidence on the Audited Financial Statements for the Office of Director of Public Prosecution (Vote 1291) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Rashid Khator - Deputy Director Central Facilitation Service
2. Mr. Kennedy Ndwigi - Deputy Finance Officer
3. Ms. Lilian Obuo - Chief of Staff

and submitted as follows:

3761) The Committee observed that Paragraph 1375 on lawfulness and effectiveness in use of public resources was discussed and found as satisfactory.

Other Matter

1375. Budget and Budgetary Performance

1375.1 Receipts

3762) The Office of the Director of Public Prosecutions had an approved budget of KSh.1,999,002,962 against actual receipts of KSh.1,882,527,355 resulting to budget shortfall of KSh.116,475,607 or 6%.

Submission by the Accounting Officer

3763) The Accounting Officer submitted that the shortfall of Ksh.166,475,6077 or 6% is within the allowable range of + or – 10%. The proceed from domestic and foreign grants of Ksh2,550,000 was captured. The National Treasury gave the Office authority to spend in advance an amount of Ksh.6,010,500 as appropriated through the United Nation Population Fund (UNFPA) and which was to be captured in the Supplementary Estimates II, but only Ksh2,010,500 was captured. A request was done to National treasury to capture vide letter ODPP/CONF/1/7/1AVOL.III (66) to capture the difference of Ksh.4,000,000 but there has been no correspondence to that effect.

Committee Observations and Findings

3764) The Committee observed as follows:

1) The Budgetary Performance shortfall of Ksh.166,475,6077 or 6% was within the allowable range of + or – 10%;

2) There was need to regularize the expenditure of Ksh.6,010,500 appropriated through the United Nations Population Fund (UNFPA); and
3) The Committee marked the matter as resolved.

1375.2 Payments

3765) Further, the office had approved expenditure of KSh.1,999,002,962 against actual expenditure KSh.1,875,322,980 resulting to an under absorption of KSh.123,679,982 or 6%.

Submission by the Accounting Officer

3766) The Accounting Officer submitted that the shortfall of Ksh123,679,977 or 6% is within the allowable range of + or – 10%. The Transfer to other Government entities of Ksh25,000,000 which is 25% of the Budget was processed but no exchequer was given.

3767) The acquisition of the Assets shortfall of Kshs8,595,733 or 56% of the budget was as a result of challenges associated with IFIMIS system as the Office did not finish the process of supply of the furniture and hence no exchequer.

Committee Observations and Findings

3768) The Committee observed and found as follows:
1) The under absorption of the budgetary shortfall of Ksh123,679,977 or 6% was within the allowable range of + or – 10%; and
2) The Committee marked the matter as resolved.

3769) <u>The Committee observed that Paragraph 1377 to 1378 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

50.0. OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

FINANCIAL STATEMENTS FOR VOTE 1311

Ms. Ann Nderitu, the Accounting Officer for the Office of the Registrar of Political Parties (Vote 1311) appeared before the Committee on 16th October 2020 to adduce evidence on the Audited Financial Statements for the Office of the Registrar of Political Parties (Vote 1311) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. CPA Florence Birya - Assistant Registrar
2. Mr. Joshua Kimuli - Chief Finance Officer
3. Mr. John macharia - Assistant Accountant General
4. Ms. Juliet Maumi - Ag. Director Compliance

<u>The Committee observed that Paragraph 1379 on lawfulness and effectiveness in use of public resources was discussed and found as satisfactory.</u>

Other Matter

1379. Budget and Budgetary Performance

1379.1 Receipts

3770) The Registrar of Political Parties had budgeted for KSh.808,527,310 from exchequer but actual amount realized was KSh.778,003,736 resulting into a shortfall of KSh.30,523,574 or 4%. The shortfall of exchequer releases impacts on the implementation of planned programmes for the year under review.

Submission by the Accounting Officer

3771) The Accounting Officer submitted that the shortfall noted of 4% was within the allowable range of + or – 10%.

Committee Observations and Findings

3772) The Committee observed as follows:

1) The shortfall percentage of 4% was within the allowable range of + or – 10%; and
2) The Committee marked the matter as resolved.

1379.2 Payments

3773) The Office of Registrar had approved total budget of KSh.808,527,310 against actual total expenditure of KSh.760,357,426 resulting to an under absorption of KSh.48,169,884 or

6%. This was mainly attributed to use of goods and services which had under absorption of KSh.42,345,542 or 22%. The under expenditure was attributed to shortfall in exchequer releases resulting into unachieved annual objectives and goals.

Submission by the Accounting Officer

3774) The Accounting Officer submitted that the shortfall noted of 6% was within the allowable range of + or – 10% .

Committee Observations and Findings

3775) The Committee observed as follows:

1) The shortfall percentage of 4% was within the allowable range of + or – 10%; and
2) The Committee marked the matter as resolved.

1380. Inadequate Staffing

3776) As at the time of audit in October 2018, the Office of the Registrar of Political Parties was inadequately staffed. The Registrar was on an acting capacity and did not have any of the three (3) Deputy Registrars as required by the approved staff establishment. Also, all other departments had shortages of staff which negatively affected the Registrar's ability to discharge her mandate effectively.

Submission by the Accounting Officer

3777) The Accounting Officer admitted that the registrar was in the Acting capacity and three Assistant Registrars were not in place as stipulated in part IV of Section 33 (1-2) of Political Parties Act, 2011 and the office was understaffed.

3778) The mandate of recruitment of the Registrar and the Assistant Registrars falls with the Public service Commission (PSC) as per the Political Parties Act, 2011. The Commission advertised for the above position through its websites and on newspapers of National wide circulation on 18th September, 2018 and on May 2020.

Current status of recruitment of the Registrar and the three Assistant Registrars

3779) The recruitments was completed and the president appointed Registrar and two Assistant Registrar Vide Gazette Notice No. 183 while the appointment of one Assistant Registrar is pending.

Current status of staffing at ORPP Office

3780) The Current approved organization structure and staffing levels for the Office of the Registrar of Political Parties is 232 staff members. The Office upon receipt of the approved establishment, wrote letter Ref. No. RPP/ADM/1 VOL. III/ (11) dated 15th January, 2020 to National Treasury requesting for Authority to recruit thirteen staff members to fill the identical critical vacant positions.

3781) However, even after the recruitment of the additional 13 staff Members, the Office will still be grossly understaffed and the ORPP presence at the County level will still be minimal and the Office should be facilitated to open 5 County Offices every year for the next five years as per the current strategic plan.

Committee Observations and Findings

3782) The Committee observed as follows:

1) The recruitment of the Registrar of Political Parties and two Assistant Registrars was completed and appointment by the President done;
2) The recruitment of one Assistant Registrar was still pending; and
3) The Committee however marked the matter as resolved.

3783) The Committee observed that Paragraph 1382 to 1383 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

3784) The Committee observed that Paragraph 1384 to 1387 will be considered by the Special Funds Accounts .

51.0. WITNESS PROTECTION AGENCY

FINANCIAL STATEMENTS FOR VOTE 1321

Unqualified Opinion

3785) The Committee observed that Paragraph 1388 to 1390 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

52.0. KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

FINANCIAL STATEMENTS FOR VOTE 2011

Unqualified Opinion

3786) The Committee observed that Paragraph 1391 to 1393 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

53.0. NATIONAL LAND COMMISSION

FINANCIAL REPORT FOR VOTE 2021

Ms. Kabale Arero Tache, the Acting Accounting Officer for the National Land Commission (Vote 2021) appeared before the Committee on 26th May 2020 to adduce evidence on the Audited Financial Statements for the National Land Commission (Vote 2021) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Benard Cherutich - Ag. Director Finance and Accounting
2. Mr. Daniel Mwakio - Principal Finance Officer

And submitted as follows

1394. Inaccuracies in the Financial Statements

3787) Comparison between the financial statements and trial balance revealed discrepancies as shown below:

Item Description	Balance in the Financial Statements Ksh	Balance in the Trial Balance Ksh.	Difference Ksh.
Recurrent bank account	3,463,278	(779,374,268)	782,837,546
Development bank account	58	227,249,113	(227,249,055)
Cash in hand	-	5,143,930,147	(5,143,930,147)
Debtors and advances	10,349,078	34,255,058	(23,905,980.30)
Impressts	9,262,110	169,273,740	(160,011,630)
Other debtors	-	15,232,192	(15,232,192)
Suspense and clearance	-	438,800	(438,800)
General deposit	-	(1,599,044,811)	1,599,044,811
Other current assets	-	180,680	(180,680)
System required liabilities	-	2,983,711,072	(2,983,711,072)
General provision	-	5,177,393,171	(5,177,393,171)
Withholding tax	-	6,239,086	(6,239,086)

3788) In the circumstances, the accuracy of the financial statements for the year ended 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3789) The Accounting Officer submitted that it was true there were discrepancies in the Financial Statements and the IFMIS Generated reports. These were due to the instability of the IFMIS trial balance figures then. The learning curve in use of IFMIS at the beginning was not yet effective and most of the officers handling capturing and posting of transactions were not yet fully trained on the national treasury IFMIS System, However the financial statements have been processed to reflect the true position. The Corrected financial statements and trial balance were provided for the Committee to peruse.

Committee Observations and Findings

3790) The Committee observed as follows:

1) The financial statements and the trial balance had been reconciled, confirmed and verified by the Auditor General; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3791) The Committee recommended as follows:

1) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1395. Bank Balances

3792) The statement of assets and liabilities as at 30 June 2018 reflects bank balance of Ksh.7,115,620,264. However, the reconciliation statement for the National Bank Compensation Fund account reflects unpresented cheques totalling Ksh.61,314 whose clearance status as at the time of the audit in December 2018 was not shown. In the circumstances, the accuracy of bank balance of Ksh.7,115,620,264 as at 30 June 2018 could not be confirmed.

Submission by the Accounting Officer

3793) The Accounting Officer submitted that the unpresented cheques totalling to Kshs.61,314 whose clearance status as at the time of Audit in December 2018 was not shown had been cleared during the cleaning up of the trial balance for the period under review and therefore, the same had been resolved. Copies of the balance sheets were provided for perusal by the Committee.

Committee Observations and Findings

3794) The Committee observed as follows:

1) The Bank balances had been reconciled, confirmed and verified by the Auditor General; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3795) The Committee recommended as follows:

1) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1396. Other Expenses

1396.1 Compensation for Mombasa Port Area Development

3796) The statement of receipts and payments for the year ended 30 June 2018 reflect other expenses totalling Ksh.8,123,624,326. Included in this expenditure is compensation for three parcels of land to a local firm totalling Ksh.224,784,720. However, the valuation reports for the three parcels of land were not produced for audit review. In the circumstances, the propriety of expenditure totaling to Ksh.224,784,720 cannot be confirmed.

Submission by the Accounting Officer

3797) The Accounting Officer submitted that this was among the projects where compulsory Land acquisition was handled by the Ministry of Lands and Physical Planning. The processes and procedures of compulsory land acquisition, for this project were undertaken in the year 2014. NLC received compensation money to pay the PAPs from the acquiring body. During Audit, the Commission wrote to the Principal Secretary Ministry of Lands requesting to be provided with the Valuation reports for the projects but the reports were never availed.

3798) An explanatory letter dated 9th January 2019 and 5th September 2019 regarding projects undertaken by the Ministry of Lands and Physical Planning which, the Commission had requested for documentation and valuation reports was attached for perusal by the Committee.

Committee Observations and Findings

3799) The Committee observed as follows:

1) The documents requested by the Commission had not been availed by the Principal Secretary, Ministry of Lands and Physical Planning; and
2) The matter was therefore unresolved.

Committee Recommendations

3800) The Committee recommeneded as follows:

1) **Within three (3) upon tabling and adoption of this report, the Accounting Officer for the Ministry of Lands and Physical Planning should provide the Valuation Report for the Parcel of Land at Mombasa Port Area Development.**
2) **The Committee to re-examine the matter of land compensations while examining the Special Report on Lands Compensations for the years 2014/2015, 2015/2016, 2016/2017 and 2017/2018 which is already before the Committee**.

1396.2 Compensation for Thika Road Project

3801) Also included in other expenses is an amount of Ksh.45,367,404 paid as compensation to a supermarket situated on land LR No. 13858.70 along Thika Road measuring 0.0909 for which the registered owner of the land had also been compensated KSh.38,263,750. It was, however, noted that although the supermarket was registered on 16 July 2015 as per certificate of incorporation, the lease agreement between the land owner and the supermarket was dated 18 December 2009 implying that the lease was entered into before the supermarket was incorporated. Further, valuation reports for the supermarket were not availed for audit verification. Consequently, the propriety and validity of Ksh.45,367,404 paid as compensation to the supermarket could not be confirmed.

Submission by the Accounting Officer

3802) This is among the projects where compulsory acquisition was handled by the Ministry of Lands and Physical Planning. The processes and procedures of compulsory land acquisition for this project was undertaken in the year 2010 when National Land Commission had not been constituted. The Commission received monies from the acquiring body Kenya National Highways Authority (KeNHA). Amongst the Payee in the schedule from KeNHA was Kassmatt Supermarket Limited. During FY 2017/18 audit the Commission requested for valuation reports through the Principal Secretary the Ministry of Lands and Physical Planning vide letter Ref. NLC/V & T/PROJECTS dated 9th January 2019 and NLC/3/4 VOL.III dated 5th September, 2019 but the reports were not availed to the Commission leading to NLC getting adverse audit report.

3803) The Commission is yet to receive the valuation reports from Ministry of Lands and Physical Planning as per the attached letter. Attached were letters to PS Ministry of Lands and Physical Planning for perusal by the Committee.

Committee Observations and Findings

3804) The Committee observed as follows:

1) The documents requested by the Commission had not been availed by the Principal Secretary Ministry of Lands and Physical Planning; and
2) The matter therefore remained unresolved.

Committee Recommendations

3805) The Committee recommended as follows:

1) **Within three (3) upon tabling and adoption of this Report the Accounting Officer for the Ministry of Lands and Physical Planning provides the Valuation Report for the Parcel of Land at Mombasa Port Area Development.**
2) **The Committee to delve deeper into the matter of land compensations while examining the Special Report on Land Compensations for the years 2014/2015, 2015/2016, 2016/2017 and 2017/2018 which is already before the Committee**.

1396.3 Acquisition of Landfill Mitubiri/Wempa Block 1/6824

3806) Further, included in other expenses is a payment of Ksh.82,470,000 being part payment for purchase of 50 acres of land valued at Ksh.135,470,000 for sanitary landfill in Muranga County. The money was received from State Department of Housing and Urban Development. However, no signed valuation report was availed other than a hand written draft which valued the land for Ksh.135,470,000 inclusive of 15% disturbance allowance, whose justification was not provided given that the land was not occupied. In the circumstances, the validity of expenditure totalling Ksh.82,470,000 could not be confirmed.

Submission by the Accounting Officer

3807) The Accounting Officer submitted that it was true that during the audit process the Commission never availed the valuation report. During the time of audit, the valuer who did acquisition of Landfill was out of the Country hence the signed valuation report could not be availed despite several follow ups. However, the valuer later availed the signed Valuation Report dated 24th November, 2016 and which was attached for perusal by the Committee.

3808) On justification of the 15 % disturbance allowance given to Landfill Mitubiri, It's a statutory requirement given to all Project Affected Persons - PAPs as per the Law to all properties being acquired whether or not developments are done to the land. The justification was attached for perusal by the Committee.

3809) Attached was also the Land Act 2012 section 122 [c] which states that if the Commission finds that the partial compulsory acquisition originally intended will render the remaining land inadequate for intended use or will severely and disproportionally reduce the value of the remaining land, it will instruct the acquiring authority to acquire the remaining land. As per the attached the area acquired is 50 acres or 20.325 HA and not 40 acres as stated

Committee Observations and Findings

3810) The Committee observed as follows:

1) The payments were made based on the valuation report which was verified and confirmed; and
2) The Committee marked the matter as resolved.

1396.4 Compensation for Interruption and Loss of Business

3811) In addition, included in other expenses is a payment of Ksh.360,000,000 paid to a law firm on behalf of a client for interruption and loss of a business for plot in Mombasa. However, it was not clear how the value of interruption and loss of business was arrived at as no valuation report was availed for audit verification. Consequently, the validity of the expenditure amounting to Ksh.360,000,000 paid as compensation for interruption and loss of business could not be confirmed.

Submission by the Accounting Officer

3812) The Accounting Officer submitted that it was true that during the audit process the Commission never availed the valuation report for Compensation for Interruption and Loss of Business for Parcel No MN/VI/4838 in Mombasa. However, the Valuer has since availed the valuation report which was attached for perusal by the Committee.

Further Submission by Mr. Chavangi Tom – CEO National Land Commission

3813) Mr. Chavangi Aziz, the Chief Executive Officer and the Secretary to the Commission appeared before the Committee accompanied by Dr. Salome Munubi, the Director Valuation and Taxation:

And submitted as follows:

The Commission

3814) Section 7 (1) of the National Land Commission states the membership of the Commission as being the Chairman and eight other Commissioners, who are appointed as per the Constitution of Kenya 2010 and the National Land Commission Act of 2012.

Formation and powers of Commission Committees

3815) Section 16 of the National Land Commission Act of 2012 empowers the Commission to establish committees for the better carrying out of the functions of the Commission. Pursuant to the aforesaid, the Commission established Commission Committees vide **Minute number 01/02/08/2013 in 2013**. The committees were headed by competent Commissioners and supported by expert technical staff in any of the mentioned field. The authority of such decision of these committees was guided by the Chairman being the Commissioner, who equally in terms of hierarchy my office was answerable to.

3816) Further on Tuesday of the 20th day of January 2015 during the meeting of the Commission referenced as the **41st, minute number 15/1/20/201**, the Commissioners resolved that the committees as established vide minute number 01/02/08/2013 remain as they were until new committees were to be established**.** Pursuant to the two resolutions of the Commission, the Secretary to the Commission did a memo to all the Directors and the Heads of Departments articulating the working formulae of the Committees as established by the Commissioners. It ought to be noted that the Commissioners through their formulation of committees did not authorize that the Secretary sits in any of the Commission Committees the referenced minutes depict the same. Further, ***the Commissioners also established that all the technical decisions were to be done through the Committees and concurrently any implementation of these decisions were to be RATIFIED.***

3817) The CEO brought to fore the fact that all policy decisions related to the management of funds and expenditure of the Commission was not entirely the decision of the Secretariat, but was guided and directed by the relevant committees that were established by the Commissioners then and who set up the policy needed for the purposes of both administrative and financial management of the Commission.

3818) In view of the above, he demonstrated clearly how the approvals for payment of Kenya Shillings 360,000,000.00 was achieved as follows.

a. **Minute of the Land Acquisition & Compensation Committee meeting held on 8th September 2017 at Ardhi House room 203, 2nd Floor Boardroom at 10.00 Hrs.**

3819) In Min**. 06/08/09/2017: NRB-MBS SGR**: Payment of Kshs. 360,000,000.00. Miritini Free Port Limited Vs. Attorney General & 4 Others & Magnate Entertainment Limited & 4 Others.

Discussion

3820) KRC deposited Kshs. 360,000,000.00 for payment of Miritini Free Port Limited. The Committee noted that, legal issues affecting the subject property had not been resolved and the matter was still in court. It was discovered that there were issues emerging from a new claimant and the committee felt it was necessary for ownership documents under the Freeport

Limited be investigated by the Review of Grants and Disposition Committee and a decision made. The subject payment was deferred until the issues raised sorted**.**

b. **Minute of special Land Acquisition and Compensation Committee meeting held on 6th October 2017 at Ardhi House, 4th Floor.**

3821) In the Land & Acquisition & Compensation Committee, the Committee under **Min. 1/6/10/2017: Mombasa SGR Court Cases:** Miritini Free Port MN/VI/4805, the Committee deliberated and stated as follows.

1. MN/VI/4805 – Miritini Free Port and MN/VI/4838-AGOL are both under the same directors and total compensation of Kshs. 1,635,400,462.00 for the parcels was deposited by KRC.
2. Miritini Free Port was to be compensated Kshs. 1,475, 486, 485.00 for the SGR corridor. However, they were paid Kshs. 1,115,486,485.00 less 360,000,000.00 as requested by the Directors to be diverted to AGOL.
3. AGOL was compensated Kshs. 159,913,977.00 under SGR and Kshs. 360,000,000.00 for loss of business over the period of SGR corridor
4. KRC eventually deposited Kshs. 360,000,000.00 for loss of business payable to AGOL. This is the money to reimburse for Miritini Free Port as being held by the Commission.

Discussions

1. Petition 34/2016 by Ali Nyamani against Miritini Free Port Ltd. The petitioner abandoned the case.
2. Gikandi & Company Advocates are not enjoined in the case
3. Land case Number 13 by Monica Wambui Kamau and the NLC -MV/VI/755 (Claim that MV/Vi/4838 and MV/VI/4737 encroached and overlaps on their land.

The Legal Directorate stated that

1. Commission did not gazette MV/VI/4737
2. Government acquired the entire MV/VI/755 in 1976 for urban development and compensation of Kshs. 100,010.00 was paid for the same. Notices of the process and evidence of payment was available in the files.
3. Review of Grants Committee gave a determination in favour of MN/VI/4838
4. Parties are before the Court -ELC.13 Petitioner 1, ELC 170 and ELC 171 over MN/VI/4737.

Issues Considered

1. In all the above cases, there was no STOP order preventing the Commission from Paying Miritini Free Port at the time of this meeting.
2. Miritini Free Port has legal proprietorship as per documents held at the Commission.
3. That Kamau ceased ownership of MN/VI/755 in 1976 when Government acquired the land.

4. Review of grants & Dispositions Committee has undertaken due diligence on proprietorship of MN/VI/4805 and MN/VI/4838.
5. Minutes and reports of the Review of Grants & Dispositions Committee as provided by the Land acquisition and Compensation Committee about the referred land parcels.
6. Legal Directorate detailed report on the file and court process of MN/VI/755.

Resolved

1. The Committee approved disbursement of Compensation for Kshs. 360,000,000.00 to Miritini Free Port

Analysis

3822) The minutes of 8th September 2017 clearly demonstrate that they were issues that needed to be resolved by the Review of Grants & Disposition Committee. Subsequently, on 6th October 2017, the Land Acquisition & Compensation Committee via a special meeting approved payment to Miritini Free Port after the said directors of Miritini Free Port directed that the money amounting to Kshs. 360,000,000.00 ***(Letter from AGOL accepting receipt of award 6***) to be deposited to AGOL since directors of AGOL and Miritini Free Port were the same.

3823) It is important to note that the authority to pay always emanated from the relevant committees. In this case the land and acquisition committee gave the authority after they had received a go ahead to do so from the Review of Grants & Disposition Committee.

3824) Even though the payment was made on March 2017, the minutes to ratify the payments were done in September and October 2017 respectively. This was due to the fact that, the Commission inherited payments of SGR funds from KRC in late 2016, presumably on December 2016 as a result of intervention from the National Assembly Land Committee. Immediately after the SGR funds were transferred to the Commission, the tradition was that, after valuation, the reports would be forwarded to the Chairman ***(letter from Chairman NLC confirming that the land belongs to AGOL and authorizing payments-7 was availed for perusal by the Comiitte)*** who would then authorize payment. This happened for some time until when the Committees became fully operational and that is the scenario in this case.

3825) As a result, immediately the committees became fully operational, one of the items that was recalled for ratification was the AGOL payment and after due diligence and consideration of all the facts surrounding the payment at that particular time, the committee found out that the same was paid in compliance and accordance with the laid down procedures and processes in existence under land acquisition. For as long as no loss was occasioned as a result of the payment to AGOL, the spirit and the principles of The Public Finance Management Act, were upheld in this case.

Saving Taxpayers Money

3826) The owners and Directors of AGOL had wanted Kenya Shillings One Billion, Two Hundred Thousand for loss of business. ***(Attached herewith is the letter requesting for the amount-8)*** However, after the Commission went to the ground, inspected and valued the loss of business and arrived at a quarter of the money that was asked for by AGOL being Kenya Shillings Three Hundred & Sixty Million Only. In the Commission estimation this was the final figure that was to be paid to AGOL, though in recent times, the Commission has been bombarded by AGOL, to pay the remainder of the loss of business being Kenya Shillings Six Hundred & Seventy Million, Five Hundred, Eighty Four, Four Hundred Thirty Four Million. ***(Attached herewith is the letter from AGOL-9)*** though the loss of business was computed at Kenya Shillings Three Hundred & Sixty Million Only not more less. This makes the actual savings of Kenya Shillings Three Hundred & Nineteen Million, Two Hundred & Thirty-Nine, Two Hundred & Twelve Thousand.

3827) Furthermore, AGOL gave a valuation of about Six Hundred Ninety One Million, Five Hundred & Eighty Four, Four Hundred Seventy Nine Thousand & Eighty Six Cents from Knight Frank for purposes of paying the land in question ***(Attached is the valuation report-10)*** However, the Commission after valuing the land and going to the ground arrived at a figure of One Fifty Nine Million, Nine Hundred & Thirteen, Nine Hundred & Sixty Six, making a saving of about Five Hundred Thirty One Million, Six Seventy Three, Five Hundred & Two Thousand & Sixty Six Cents ***(Attached is the letter from AGOL accepting the award-11).***For land and interruption of business, the Commission paid Kenya Shillings Five Hundred & Nineteen, Nine Hundred & Thirteen, Nine Hundred & Seventy Seven Thousand, making extensive savings to the tax payers money. ***(Attached herewith is the acceptance letter from AGOL-12).***

3828) At this juncture, it is important to summon the owners of AGOL, to come and justify the remainder of the amount that they are asking for.

Submission by Dr. Salome Munubi

3829) She submitted as follows:

1. That the Cabinet secretary responsible wrote to National Land Commission expressing that Kenya Railway Cooperation would like to compulsory acquire land for purpose of public standard gauge railway line.
2. That the Kenya Railways Cooperation later provided a list of lands that would be affected by the above project
3. That National Land Commission (NLC) gazetted a list of lands affected indicating land parcel, land size and proprietorship.
4. That the first gazette on the above was issued on December 2014
5. After Gazetting intention to acquire and notice of acquiring, the Commission invited land owners to place claims on properties
6. Another interest on land was identified since there was pipeline operated by the African Gas & Oil Ltd (AGOL) that was passing through the parcel of land. Due to

vibration from ongoing works for SGR, this necessitated AGOL to halt pumping of liquefied petroleum gas during the construction hours.

7. From the above AGOL duly sought compensation on interruption and loss of business.

Committee Observations and Findings

3830) The Committee observed and found as follows:

1) The documents requested by the Commission including the valuation report had not been availed by the Principal Secretary Ministry of Lands and Physical Planning;
2) The supporting document from Deloitte and Touche submitted as evidence for valuation for loss of business was not signed and stamped by the Chief Executive Officer of the firm;
3) The supporting document from Deloitte and Touche submitted as evidence for valuation for loss of Business did not meet the standards of a valuation;
4) The National Land Commission paid AGOL Ksh.159, 913, 977 and Ksh. 360 Million on Land Compensation and loss of business, respectively;
5) The National Land Commission did not involve national government mechanical department to ascertain whether the pipeline owned by AGOL would be subjected to cathodic effects caused by vibration during the construction of SGR;
6) In addition, the valuation between NLC and the Private Valuer hired by AGOL had a variation of 76.9% in terms of amounts way above the standard variation of +- 20%. AGOL was, therefore, paid much less than it had claimed;
7) The National Land Commission did not include a mechanical engineer in the valuation team knowing that AGOL runs a lot of mechanical operations;
8) The Committee further noted conflict of interest since Dr. Salome Munubi who sits at Land Valuation & Acquisition Committee doubles up as the NLC Valuer for the AGOL parcel of land; and
9) The matter was resolved.

Committee Recommendations

3831) The Committee recommended as follows:

The Committee to delve deeper into the matter of land compensations while examining the Special Report on Land Compensations for the years 2014/2015, 2015/2016, 2016/2017 and 2017/2018 which is already before the Committee.

1397. Pending Bills

3832) The Commission reported total pending bills of Ksh.202,528,474 as at 30 June 2018, which were not settled but were carried forward to 2018/2019. Had the bills 578 been paid and the expenditure charged to the respective accounts in 2017/2018, the statement of receipts and payments for the year would have reflected a surplus of Ksh.762,198,571 instead of the reflected surplus of Ksh.964,727,045 for the year ended 30 June 2018.

Submission by the Accounting Officer

3833) The Accounting Officer submitted that it was true that the Commission had Pending bills to the tune of Kshs 202,528,474 as at 30th June 2018.The Pending bills arose as a result of lack of Exchequer which was not provided by the National Treasury towards the end of the financial period. This led the bills not be settled hence becoming Pending bills. Its worthy noting that the aforesaid pending bills were settled in full in the Financial Year 2018/19 budget allocation as first charge as prescribed in the PFM Act 2012.

Committee Observations and Findings

3834) The Committee observed as follows:

1) The pending bills had been settled as it was confirmed and verified by the Office of the Auditor General; and
2) The matter was marked as resolved.

Other Matter

1398. Special Audit

3835) The Public Accounts Committee requested the Auditor-General in March 2018 to carry out a special audit on compensation payments made by the Commission and submit a special report on the same to Parliament. As at the time of this report, the special audit was still in progress. The special audit report when completed may bring to light issues not captured in the course of this statutory audit report.

Submission by the Accounting Officer

3836) The Accounting Officer submitted that during the last Commission meeting to this Committee, the Office of the Auditor General was instructed by PAC to conduct a Special Audit on the Compensation projects carried out by National Land Commission. The Audit was conducted and completed by OAG and currently the Commission is awaiting the Audit Opinion from the Auditors.

Committee Observations and Findings

1) The Committee was informed that the Special Audit Report by the Auditor General was already before the House; and
2) The matter was therefore unresolved.

1399. Budgetary Performance

3837) During the year under review, the Commission's actual receipts amounted to Ksh.10,188,103,065 while the budgeted receipts amounted to Ksh.10,414,574,642 resulting in an under collection of Ksh.226,471,579 which translate to 98% efficiency in revenue collection which is commendable. Further, the Commission's actual expenditure for the year amounted to Ksh.9,223,376,018 against an expenditure budget of KSh.9,443,938,596 resulting in an under expenditure of KSh.220,562,578 or 98% efficiency. Further analysis indicate that the Commission budgeted expenditure on acquisition of assets amounted to Ksh.230,823,778 while that of social security benefits amounted to Ksh.17,035,000 against actual expenditure of Ksh.69,919,020 for acquisition of assets and 11,129,796 for social security benefits resulting in under expenditure of Ksh.160,904,758 and KSh.5,905,204 respectively which translate to 30% efficiency for acquisition of assets and 65% for social security benefits. Consequently, there is need to review the budget process to ensure that resources are channeled to areas where they are needed most.

Submission by the Accounting Officer

3838) The Accounting Officer submitted that it was true that the Commission expenditure budget absorption under Acquisition of Assets had challenges in the implementation of the Public Land Information Management [PLIM] Capital project and Social Security benefits which resulted due to some employee who resigned from the Commission hence under utilisation of the budget. The under absorption in acquisition of Assets was as a result of lack of exchequer release from the National Treasury. However, this has been rectified in the subsequent financial years which is at 93 percent in the Financial Year 2018/19.

Committee Observations and Findings

3839) The Committee observed as follows:

1) The budgetary performance was reviewed and rectified as was confirmed and verified by the Auditor General; and
2) The matter was marked as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for conclusion

1400. Land Acquisition and compensation of Ruaraka High School and Drive Inn Primary School

3840) The statement of Receipts and Payments for the year ended 30 June 2018 reflects other expenses totalling to Ksh.8,123,624,327. Included in this amount is part payment of Ksh.1,500,000,000 to a limited company for acquisition of part of L.R.No.7879/4 by the Government. Records in relation to this acquisition indicate that a director of two companies who claimed ownership of the land vide letter dated 17 August 2016 addressed to the National Land Commission requested for compensation for land indicated as measuring 17.5364 acres comprising of 13.5364 579 acres occupied by Ruaraka secondary school and 4 acres occupied by a chief’s camp.

3841) The National Land Commission vide letter Ref:Val 1446 dated 13 September 2016 brought the matter to the attention of the Cabinet Secretary Ministry of Education upon which the Ministry replied vide letter Ref:MOE/CONF/G5 dated 7 February 2017 in which the Principal Secretary acknowledged that both Ruaraka High School and Drive Inn Primary

School were occupying part of LR No.7879/4 which was private land. Vide letter Ref:MOE.CONF/G5 VOL.II/16 dated 17 March 2017, the ministry of Education formally requested the National Land Commission to commence the process leading to compulsory acquisition of the land.

3842) In a valuation report dated 14 June 2017, the National Land Commission determined the area for acquisition as measuring 6.9818 acres for Drive in Primary School and 6.7883 acres for Ruaraka High School, all totalling to 13.7701 acres at Ksh.206,000,000 per acre translating to 3,262,136,690 inclusive of 15% disturbance allowance. The valuation report however reflects total valuation of Ksh.3,269,040,600 resulting in a variance of Ksh.6,903,910 which has not been explained. Further, justification for the 15% disturbance allowance was not clear given that the claimant had not developed the land in question.

3843) The Ministry of Education transferred KSh.1,500,000,000 to the National Land Commission on 22 January 2018 for the purpose of the acquisition and the same was paid to the vendor on 29 January 2018 vide cheque number 000936. However, a scrutiny of certificate of postal search obtained on 16 July 2018 revealed that the property has two mortgages dated 21 December 1981 to Continental Credit Finance Limited for Ksh.21,000,000 and another dated 11 July 1986 to Kenya Posts and Telecommunications Corporation for Ksh.165,000,000. These encumbrances had not been disclosed or cleared by the time of compulsory acquisition.

3844) In the circumstances, I am unable to confirm whether the process of acquisition was procedural and payment of Ksh.1,500,000,000 made to the vendor is a proper charge to public funds.

Submission by the Accounting Officer

3845) The Accounting Officer submitted that as per the time of disbursement of half of the compensation funds in January, 2018, the Commission had carried out a search which showed the title had nil encumbrances nor inhibitions which led the Commission to pay the funds. However, determination of the dispute of ownership is currently in the Environment Land Court under Reference ELC No 1 of 2018 NATIONAL LAND COMMISSION Vs AFRISON EXPORT IMPORT LTD & OTHERS.

3846) Attached for perusal by the Committee was a certificate of postal search of the land parcel LR No 7879/4 as at time of disbursement of funds. On the variation of Kshs 6,903,910 between the valuation report for the land acquired, the calculation as below:

Amount as per calculation (206,000,000 * 13.7701 acres) + 15 % 3,269,040,600	Kshs

Less– Kshs 3,262,136,690
Variance Kshs 6,903,910

Given that the full compensation for the land acquired has not been settled in full, Ksh.6,903,910 variance will be revised downwards as the error so that the actual amount to be paid will be Ksh.3,262,136,690 when the final determination and clearance is made.

Committee Observations and Findings

3847) The Committee observed as follows:

1) The Committee observed that a judgement on the matter was made in the High Court in Nairobi and later an appeal was lodged in the Environment Land Court under Reference ELC No 1 of 2018 National Land Commission Vs Afrison Export Import Ltd & Others;
2) The Committee also observed that the Department Committee on Lands of the National Assembly had investigated and reported to the House on the matter and the House adopted the Report;

Committee Recommendation

3848) The Committee recommended that:

The matter be stayed under the *jub judice* rule.

3849) <u>The Committee observed that Paragraph 1400 to 1405 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

54.0. INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2031

Mr. Marjan Hussein the Accounting Officer for the Independent Electoral and Boundaries Commission appeared before the Committee on 28th October 2020 to adduce evidence on the Audited Financial Statements for the Independent Electoral and Boundaries Commission (2031) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Obadiah Keitany - Ag. Deputy CEO & Director Finance
2. Ms. Fatuma Jama - Ag. Finance Manager/ Management Accountant
3. Mr. Harley Mutisya - Chief Engineer, PSC
4. Mr. Patrick Nyakira - Financial Accountant

Basis for Qualified Opinion

1406. Irregular Expenditure on Media Services

3850) The Statement of Financial Performance for the year ended 30 June 2018 reflects general expenses amounting to KSh.17,535,574,000. As disclosed in Note 11 to the financial statements, the expenditure includes printing and advertising expenses of KSh.1,022,402,000. Included in the printing and advertising expenses is an amount of KSh.23,040,000 the Commission paid to five media houses and radio stations for airing documentaries during the presidential election in 2017. However, documentary evidence provided revealed that the negotiation cost would have been KSh.11,200,000. No satisfactory explanation was provided for the extra payment of KSh.11,840,000.

3851) Consequently, the validity of the expenditure of KSh.23, 040,000 included in the general expenses could not be confirmed.

Submission by the Accounting Officer

3852) The Accounting Officer submitted that the Commission engaged four (4) media houses (i.e. Nation Media Group, Standard Group Ltd., Mediamax Networks Ltd., and Kenya Broadcasting Corporation) to air a 15-minutes documentary for 4 days in a week in their respective TV stations. The tender negotiation committee negotiated with the four (4) media houses and settled on a negotiated rate that was used for billing and settlement. The first part of the documentary was aired between 19th June 2017 and 1st July 2017 and the four media houses paid a total of KSh.11,520,000 on September 2017. The second part of the documentary airing, which was continuation of the first part, was done between 10th July and 20th July 2017 and the four media houses paid a total of KSh.11,520,000 on March 2018. The two payments totaled to KSh.23,040,000 and thus there was no extra payments as reported by the auditor as listed below:

Table 1: Summary of payments to media houses

S/NO.	Media house	Payment voucher no.	Date of payment	Amount(KSh.)
1	Nation Media Group ltd	202	20-09-17	2,880,000
2	The Standard Group Ltd	213	20-09-17	2,880,000
3	Mediamax Networks Ltd	215	20-09-17	2,880,000
4	Kenya Broadcasting Corporation	247	10-11-17	2,880,000
5	The Standard Group Ltd	1186	11-04-18	2,880,000
6	Kenya Broadcasting Corporation	1195	10-04-18	2,880,000
7	Nation Media Group ltd	1205	14-03-18	2,880,000
8	Mediamax Networks Ltd	1435	24-03-18	2,880,000
	Total			**23,040,000**

3853) The payments were duly requested and within the approved budgets of KSh.11,600,000 and KSh.32,200,000 dated 14th July 2017 and 21st April 2018 Respectively. Copies of the request for approval of the activity by the user, approved budgets, tender negotiation committee report, signed space orders, invoices and payment vouchers are available for audit review.

Committee Observations and Findings

3854) The Committee observed and found as follows:

1) The Accounting Officer failed to ensure that payments including payment vouchers, space orders and invoices to support all the payments are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) The Accounting Officer later provided the details of payments including payment vouchers, space orders and invoices to support all the payments was after the audit period; and
3) The Committee marked the matter as resolved.

Committee Recommendations

3855) The Committee recommended as follows:

1) **The matter be resolved.**

1407. Unsupported Expenditure on Event Organizing Services

3856) The general expenses amounting to KSh.17,535,574,000 as disclosed in Note No. 11 to the financial statements includes hospitality, supplies and services expenses of

KSh.2,183,189,000. The latter include an amount of KSh.36,186,728, which was paid to Wonderjoy Party World Ltd in relation to provision of event organizing services. The Commission claimed to have used a contract between the State Department of Interior and Wonderjoy Party World ltd to procure the firm for provision of the services. The Commission did not, however, provide documentary evidence to prove that the State Department of Interior had carried out the required procurement procedures before engaging the firm.

Submission by the Accounting Officer

3857) The Accounting Officer submitted that the Commission used the framework contract entered between the Ministry of Interior and Coordination of National Government and Wonderjoy Party World Limited to award the latter the tender for provision of event organizing services after it became apparent that time would not allow any other procurement method. This was done pursuant to section 52 (3) and (4) and Section 56 (1) and (2) of the Public Procurement and Asset Disposal Act 2015 that allows a procuring entity to use the list of another State organ or public entity. The contract was valid as at the date of the award by the Commission.

3858) The Accounting Officer appointed a negotiation committee to negotiate with the service provider pursuant to section 46, 71 and 104 of the Public Procurement and Asset Disposal Act 2015. Negotiation Committee list and professional Opinion was attached for Committee perusal.

3859) The Public Procurement and Asset Disposal Act 2015 and its attendant regulation does not obligate any procurement entity intending to use a list of another government entity to provide documentary evidence proving that the other government entity had indeed carried out a required procurement procedure before arriving at their list.

3860) However, in response to the audit query the Commission wrote to the Ministry of Interior and Coordination of the National Government on 28th March 2018 requesting for procurement documents that resulted into the award and signing of the contract as requested by the Auditors. The Commission is yet to receive feedback on the same.

Committee Observations and Findings

3861) The Committee observed and found that:

1) The Accounting failed to ensure that duplicate copies of the necessary documents are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit;
2) The explanation given by the Accounting Officer that the Commission used a Framework contract from another procuring entity, and cited section 52 (3) and (4) and Section 56 (1) and (2) of the Public Procurement and Asset Disposal Act 2015 before engaging the firm (Wonderjoy Party World Limited) was satisfactory; and
3) The Committee marked the matter as resolved.

Committee Recommendation

3862) The Committee recommended that:

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

1408. Overpayment for National Tallying Centre

3863) The expenditure of KSh.2,183,189,000 on hospitality, supplies and services disclosed under general expenses in note 11 to the financial statements include an amount of KSh.70,495,162 paid for hire of National Tallying Centre. The Commission sought to hire a venue for the National Tallying centre during the General Election of 2017 and identified the Bomas of Kenya as a suitable venue for the services. After negotiations between the two parties, a contract between IEBC and the Bomas of Kenya was signed on 21 July 2017.

3864) Examination of records reveals that the Commission paid Bomas of Kenya the amount of KSh.70,495,162 vide payment voucher no. 1196A dated 10 April 2018. Included in the payment were charges for the following components; security systems, accommodation for commissioners and hire of projectors which were higher than the negotiated contract rates. This resulted to an overpayment of KSh.27,482,162 which has not been recovered to date.

3865) In the circumstances, the validity and propriety of the expenditure of KSh.27,482,162 included in the hospitality, supplies and services under general expenses could not be confirmed.

Submission by the Accounting Officer

3866) The Accounting Officer submitted that it was not true that the Commission overpaid Bomas of Kenya (BOK) for the hire of the National Tallying Centre; rather the Commission only paid BOK for the extra services rendered during the election. The extra requirements were not anticipated during MOU negotiations. The variances on amounts paid as highlighted by the Auditor General are summarized in the table below:

Table 2: Summary of Additional Expenses

No	Description:	Amount as per MoU. (Ksh)	Amount Paid (Ksh)	Extra services (Ksh)	Variance Explanation
1	Hire of extra Digital Screens, LED TVs, Projectors and accessories	10,000,000	30,566,800	20,566,800	See note (i.)
2	Security Access System(bar and color coded badges with photos, bar and color coded parking access cards and x-ray scanners, walkthrough metal detectors, explosive and narcotic detectors)	12,000,000	14,265,230	2,265,230	See note (ii.)
3	Accommodation for the extra staff: Returning Officers and National Tallying Centre Team	1,500,000	6,150,132	4,650,132	See note (iii.)
	Total			**27,482,162**	

(i.) **Hire of Extra Digital Screens, LED TV, Projectors and Accessories**; the variance in the amount paid was due to the need for additional digital screens, LED TVs, projectors and accessories for public viewing of the election results. This was necessitated by the need to manage the crowd outside the National Tallying Centre to reduce the tension and anxiety that had built up. The Commission had not anticipated the same during the planning stage. The consequential costs were duly approved.

(ii.) **Security Access System:** The variance in amount paid for security access system was due to unanticipated increase in: night shifts; number of security cards issued; number of parking access cards issued; and the number of explosive detector test kits used. The Commission could not accurately estimate the number required during planning. The other stakeholders, vital for the security of the election presented more participants after assessing the situation. The additional cost had to be incurred to avoid compromising the security at the National Tallying Centre and the said cost was duly authorized.

(iii.) **Accommodation:** the amount paid for accommodation included charges for accommodation of Commissioners which was expressly included in the memorandum of understanding. The accommodation provided for in the memorandum of understanding was left open since the Commission could not accurately ascertain the actual number and categories of the participants that would require accommodation. Given the risk that arose due to volatile environment that unexpectedly unfolded during the tallying of the presidential results at BOK, the tension that developed in the country, and the fact that most of the staff of the Commission were involved at the National Tallying Centre, the Commission took the decision to accommodate its staff involved in the National Tallying Centre and those delivering results at the venue provided for in the MoU. The security agencies also advised the Commission on the need to accommodate the other cadre of staff for security reasons. It was against this background that the directors, other cadre of staff and the lawyers were accommodated. This change in accommodation had not been envisaged during planning stage. The consequential costs were duly approved.

The Commission paid for actual work done at the National Tallying Centre and the costs could not have been avoided.

Committee Observations and Findings

3867) The Committee observed and founded that**:**

1) Although it was unavoidable for the Accounting Officer to incur the costs, there was no additional service order issued to the supplier to warrant the invoicing and overpayment of KSh.27,482,162 thereof;
2) There were no policies and procedures in place to guide the Commission in such scenarios at the time. This policies and procedures have now been put in place;
3) The explanation given by the Accounting Officer with regard to the validity and propriety of the expenditure of KSh.27,482,162 included in the hospitality, supplies and services under general expenses was persuasive; and
4) The Committee marked the matter as resolved.

Committee Recommendation

3868) The Committee recommended that:

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

1409. Irregular Procurement of Catering Services

3869) The expenditure of KSh.2,183,189,000 on hospitality, supplies and services as disclosed in Note No. 11 to the financial statements includes expenses relating to catering services amounting to KSh.691,526,310. The contracts were awarded to the service providers based on pre-determined rates issued from the Commissions Headquarters and in complete disregard to Article 227(1) of the Constitution, which requires fairness, equity, transparency, cost effectiveness and completion in the process of procurement of public goods and services.

3870) In the circumstances, the validity of the expenditure of KSh.691,526,310 incurred on catering services by the county offices could not be ascertained. In addition, in the absence of a competitive procurement process for the catering services, it could not be confirmed whether there was value for money on the expenditure.

Submission by the Accounting Officer

3871) The Accounting Officer submitted that it was not true that all the contracts awarded to the catering service providers in the field offices were based on pre-determined rates issued by the Commission headquarters. The budgeting process at the Commission is informed by prevailing market prices. The Commission prepares budgets and sends Authority to Incur Expenditure (AIE) to field offices for procurement of various goods and services. Procurement of goods and services at the Commission's field offices is governed by the prevailing Public Procurement and Assets Disposal Act and its attendant regulations. The rates used in awarding various contracts in the field offices were as a result of competitive tendering processes and were all not the same and predetermined as reported by the auditor.

3872) Arising from the auditors finding the Commission requested for information on the said procurement from the field offices and through analysis it was established that not all contracts used rates similar to those in the AIEs (budget). Where the rates were similar to the budget then it was a just a coincidence or as a result of negotiation since, in some cases, the catering service providers had quoted amounts higher than the available budgets.

Committee Observations and Findings

3873) The Committee observed that:

1) Although the Accounting Officer provided the budgets as used to issue the AIEs, the procurement process was not demonstrated to assess the fairness, equity, transparency, cost effectiveness and competition in public procurement as envisaged in article 227(1) of the constitution; and
2) The matter therefore remained unresolved.

Committee Recommendations

3874) The Committee recommended that:

1) **Within three months of the adoption of this report, the Accounting Officer(Name the Accounting Officer) (during the period under review) must provide a satisfactory explanation for incurring expenditure of KSh.691,526,310 and for failure to demonstrate fairness, equity, transparency, cost effectiveness and competition in public procurement as envisaged in article 227(1) of the constitution.**
2) **Where the Accounting Officer fails to provide a satisfactory explanation, the Accounting Officer (Name the Accounting Officer) (during the period under review) should be surcharged KSh.691,526,310 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

3875) The Committee observed that Paragraph 1410 to 1411 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

55.0. PARLIAMENTARY SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2041

Mr. Jeremiah M. Nyegenye the Accounting Officer for the Parliamentary Service Commission appeared before the Committee on 27th October 2020 to adduce evidence on the Audited Financial Statements for the Parliamentary Service Commission (2041) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Clement Nyandiere - Director General, Joint Services
2. Mr. Irungu Kigundu - Director Finance and Accounting
3. Mr. Johnson Muyera - Deputy Director Finance/ Head of Accounts PSC
4. Eng. Pius M. Kioko - Chief Engineer, PSC
5. Mr. Dan Ajele - Chief Procurement Officer, PSC

Basis for Qualified Opinion

1412. Pending Bills

3876) As disclosed in note 13 to the financial statements, the Parliamentary Service Commission had pending bills totalling KSh.641,712,385 as at 30 June 2018. The bills were not paid but instead carried forward to 2018/2019 financial year. Had these bills been paid and the expenditure charged to the accounts for 2017/2018, the statement of receipts and payments for the year would have reflected a deficit of KSh.233,313,942 instead of surplus KSh.408,398,443 now shown. Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they form first charge.

Submission by the Accounting Officer

3877) The Accounting Officer submitted that it was true that the Parliamentary Service Commission had pending bills totaling to KSh.641,712,385.00 as at 30th June, 2018. These amounts were as a result of goods and services provided by our suppliers as well as allowances due to various Members and staff of Parliament which remained unpaid by the end of the financial year. These pending bills were occasioned by the following reasons:-

a) There were challenges relating to processing of payments through the IFMIS towards the end of the financial year. This impaired the processing of payments through the system and hampered remittances through Central Bank of Kenya internet banking.
b) Exchequer requisitions to the National Treasury were made on time but the exchequer was only received on 30th June. Due to IFMIS slow down at the end of the financial

year, actual remittances of payments could not be done before the end of the financial year.

3878) He added that he endeavored to settle the pending bills as and when funds are received by the Commission. We have since managed to pay KSh.633,907,731 of the pending bills. An amount KSh.7,804,654 remains unpaid as they were either initially not properly supported as required by law to meet the threshold for payment or still remain unsupported as required by law as per the following table:

Pending Bills as at 22nd October 2020 for the reporting period ended 30th June 2018

S/No	DATE	INVOICE NO.	SUPPLIER	AMOUNT	REMARKS
1.	14/11/2016	241034	SAROVA WHITE SANDS	261,400.00	Under Process
2.	28/3/2017	INV101161	WINDSOR	1,151,310	Under Process
3.	6/14/2017	KEGEA-IN-6158117	MFI	950,000.00	Under Process.
4.	7/11/2017	TIN17110238	RAYDOLL TOURS AND TRAVEL	1,127,190.00	Under Process.
5.	11/14/2017	INV5735	MARAWAYS	589,000	Under Process.
6.	20/3/2018	INV20170114	STEADFAST	98,000	Under Process
7.	4/6/2018	n 1364	PRIMATE TOURS	76,000.00	Under Process
8.	15/6/2018	INV59	JANNATAAN HOTEL	132,000	Under Process
9.	8/12/2015	INV201520803	LAKE NAIVASHA SIMBA	415,800	Not Supported
10.	1/12/2017	INV5740	MARAWAYS	323,000	Not Supported
11.	4/2/2017	INV5837	MARAWAYS	589,000	Not Supported
12.	5/24/2017	KEGEA-IN-6157465	MFI	423,980.00	Not Supported
13.	30/11/2017	INV51	GREEN BAY	315,780	Not Supported

14.	27/1/2018	INV5381	SILVER AFRICA	429,964	Not Supported
15.	28/2/2018	INV5483	SILVER AFRICA	215,950	Not Supported
16.	3/12/2018	INV165	FLIGHT CENTER	196,280	Not Supported
17.	5/1/2018	INV5743	MARAWAYS	456,000	Not Supported
18.	13/6/2018	INV5768	MARAWAYS	54,000	Not Supported
	Total			**7,804,654**	Not Supported

Committee Observations and Findings

3879) The Committee observed that:

1) Management has so far settled the bills outstanding as at 30 June 2018 with a balance of KSh..7,804,654 still outstanding;
2) There is a need to fast track the process of verification of the payables since they have been outstanding for too long; and
3) The matter therefore remains unresolved.

Committee Recommendation

3880) The Committee recommended that:
The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills exist, they should form the first charge in the budget of the subsequent year.

1413. Outstanding Imprest

3881) The statement of assets and liabilities reflects account receivable balance of KSh.7,801,159 as at 30 June 2018. The balance includes outstanding imprests totalling KSh.7,368,349 which ought to have been recovered or accounted for on or before 30 June, 2018 pursuant to the provisions of regulation 93(5) and (6) of the Public Finance Management (National Government) Regulations, 2015. No satisfactory reasons have, however, been provided for failure to surrender or account for the imprests.

3882) It has further been noted that the outstanding imprests balance of KSh.7,368,349 includes amounts of KSh.1,530,185 owed by three former senators and, KSh.667,520 and KSh.2,122,382 issued in 2015/2016 and 2016/2017 financial years, respectively. In view of the long delay in accounting for or surrendering these outstanding amounts, their recovery therefore appears to be doubtful.

Submission by the Accounting Officer

3883) The Accounting Officer submitted that the Statement of Assets and liabilities reflected an accounts receivable balance of KSh.7,801,159 as at 30th June, 2018.This balance includes outstanding imprest totaling to KSh.7,368,349 which had not been accounted for by the end of the financial year as per the provisions of regulation 93(5) and (6) of the Public Finance Management (National Government) 2015.

3884) The outstanding imprest is made up of KSh.1,062,941.45 which is due from former Members of Parliament and staff who are either deceased or were dismissed from the service and KSh.544,733.90 in respect of a former Member of Parliament who is now a Governor. In respect of the Governor, a letter has been sent to Chief Officer-Finance of the County Government to assist in recovery of the same while in respect of the other former Members and staff of Parliament efforts are being made to recover the amounts through the filing of legal suits for recovery of outstanding imprest as follows:

1. IN THE CHIEF MAGISTRATE'S COURT AT NAIROBI
   CIVIL CASE NO. 3272 OF 2020
   PARLIAMENTARY SERVICE COMMISSION –VS – MS. BERNEDETTA OKUTU SHAMA (sued as the Legal Representative of the Estate of the Late HON. GURRACH BORU GALGALO
   SUM CLAIMED: KSH. 114,768.10/-

2. IN THE CHIEF MAGISTRATE'S COURT AT NAIROBI
   CIVIL CASE NO. 3273 OF 2020
   PARLIAMENTARY SERVICE COMMISSION –VS KENNETH KIPKOECH NGENY
   SUM CLAIMED: KSH. 29,940/-

3. IN THE CHIEF MAGISTRATE'S COURT AT NAIROBI
   CIVIL CASE NO. 3274 OF 2020
   PARLIAMENTARY SERVICE COMMISSION –VS ANDREW MUKOMA MWENDWA
   SUM CLAIMED: KSH. 502,417.05/-

4. PARLIAMENTARY SERVICE COMMISSION –VS EKARI CHIRE
   SUM CLAIMED: KSH. 415,816.30/-**. This suit is in the process of being filed.**

The remaining KSh.5,760,673.20 has since been accounted for in full.

Committee Observations and Findings

3885) The Committee observed that:

1) The Accounting Officer had taken measures to recover the outstanding imprest and that the remaining KSh.5,760,673.20 had since been accounted for in full; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3886) The Committee recommended that:

Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1414. Construction of Multi-Storey Office Block WP Item D29 NB/NBI 901 – Job No. 7753C.

3887) The Commission awarded a contract No.WPITEMD29NB/NBI 901-JOBNO.77536 to an International company on 23 September 2013 at a tender sum of KSh.5,893,649,847 to construct a multi storey office block.

1414.1. Delay in Completion of the Building(Accounting Officer to provide PAC Committee with report on currency differences in the project within one month.

3888) Review of records and documents including related payment vouchers and site inspection minutes revealed that a total of 20 payment certificates had been issued as of 30 June 2018 and an amount of KSh.2,709,966,036 had so far been paid to the Contractor. Although the payments already made represented 46% of the contract sum. A physical audit inspection carried out in December 2018 revealed that only the main structure had been completed by that date. Further works on interior and finishing which were awarded to sub-contractors one year ago at a contract sum of KSh.1,749,026,429 had not commenced. No satisfactory explanation was provided for the slow progress in the construction works which remained uncompleted six months after the extended completion date of 27 July 2018.

3889) Further, interest on delayed payments increased to KSh.37,190,901 in 2017/2018 up from KSh.28,169,446 reported in the financial year 2016/2017. No satisfactory explanation has been provided for the continued delay in payments of certified works which continues to attract interests.

3890) In addition, audit of payment vouchers, completion certificates and other supporting documents up to and including certificate No.20 revealed extra expenditure totalling KSh.426,400,005 representing loss in conversion of Kenya shillings to US dollars when settling the contractor`s certificates. No Justification has been given on the amounts paid at a higher exchange rate rather than the rate stipulated in the signed contract document of KSh.84.0125 per US dollar.

Submission by the Accounting Officer

3891) The Accounting Officer submitted that this is a complex project and the scope of the project includes interior fit–out works for which a prime cost sum of KSh.400Million was provided in the Bills of Quantities (page 9/4-177). The procurement law requires that such works are tendered for competitively. The works were tendered three times as follows: -

i. The works were tendered in 2016 and there were no responsive bids. The bid that was closest to the being responsive was for KSh.800Million which was twice the provision in the contract.
ii. Following this the works were retendered a second time and in the second tender, the bids obtained were above KSh.980Million. This again exceeded the provision for the works in the contract.
iii. Following this two attempts, the Project Manager and the consultant were requested to review design of the works, prepare cost estimates and establish the reasons for the tenders exceeding the provision. The Project Manager and the Consultant prepared an appraisal for the entire project and advised that the provision in the contract were based on 2010 estimates. The Project Manager provided an estimate of KSh.766Million before retendering the interior fit-out works a third time.
iv. The works were tendered a third time in September 2018, analyzed and awarded to Nightigale Enterprises Ltd in December 2018 for KSh.665Million. After the award China Jiangxi International Kenya Ltd, who is the main contractor and were the second most responsive bidder for the interior-fit out works appealed against the award. The appeal was denied by the Public Procurement Administrative Review Board.
v. After the appeal, China Jiangxi International Kenya Ltd were instruct to execute a sub-contract but refused to enter into a sub-contract agreement with Nightigale Enterprises Ltd. The Commission sought the assistance of the Public Procurement Regulatory Authority and the Attorney General to resolve this stalemate. The Attorney General advised the Commission to negotiate with China Jiangxi International Kenya Ltd.
vi. Negotiations with China Jiangxi International Kenya Ltd were initiated which lead to the sub-contract being executed in August 2019. The sub-contractor had

indicated that he will complete the works in one year and therefore the main contract was extended by one year to allow for completion of the project. The Interior fit-out works are on the critical path and is the sub-contract expected to take longest.

vii. Following execution of the sub-contract, the sub-contractor mobilized and moved to site. The sub-contractor complained of non-attendance by the main contractor. The attendance involves provision of water, electricity and hoisting services. This matter was resolved and the sub-contractor applied for and connected their own power and is making arrangements for their own hoisting.

3892) The interior fit-out subcontractor was thereafter instructed to prepare a sample office for approval before the partitioning of the building. The sub-contractor commenced the works in late 2019 with the laying of screeds to the floors and importation of aluminum framing, gypsum paneling boards and fiber infill materials. However, the sub-contractor wrote and informed the Project Manager that the outbreak of Covid 19 in China affected the delivery of the materials. Most of the materials were delivered in April 2020, and the works are now about 60% complete.

3893) The above processes caused a slowdown of the progress of the works and an extension of the contract to accommodate the delays caused by the procurement process. The Commission has been, and shall continue, to closely monitor progress of the works to ensure that this complex project is completed in the shortest time possible.

1414.2. Accumulated Interest on Delayed Payments – KSh. 37,190,901

3894) Accumulated interest on delayed payments increased from KSh.28,169,446 in 2016/2017 to KSh. 37,190,901 in 2017/2018. The interest is calculated in accordance with Clause 23.3 of the contract agreements. The delay in settlement of certificates has been occasioned by the following factors which are beyond the control of the Commission:

i. Delays in exchequer releases by the National Treasury to pay the relevant certificates relating to development expenditure. This has been the most critical challenge. The problem was exacerbated when the delay occurred within the month of June 2018 when critical officers to the payment processes were asked to step aside as a result of the Presidential proclamation on the same. This was at crucial time of the closure of the financial year when the certificates were being processed. This occasioned transition challenges that caused a delay in processing payments relating to projects. The unsettled certificates became pending bills in July of the new financial year and have since been settled. An outline of the work certificates for the office block project settled as at 30th September 2020 was provided.

ii. The contractor submits certificates for payment within the last week of end of the financial year.

iii. There was a delay in uploading of the development budget in the IFMIS at the beginning of the financial year. This resulted in delays in commencement of processing of certificates arising out of projects.
iv. The Commission has raised this issue with the National Treasury with a view to minimizing delays. However, the delays in release of exchequer still persists.

1414.3. Extra expenditure totalling to KSh. 426,400,005

3895) The main contractor, in its tender documents indicated that it would require the contract sum to be paid in two portions, 80% in US dollars and 20% in Kenya Shillings. The contractor also indicated the exchange rate as that prevailing at the tender the date (One US Dollar at KSh. 84.0125). After the first certificate was settled in Kenya Shillings, the contractor complained that the payment was not done in accordance with the provisions of the contract.

3896) The interpretation of the provisions of the contract with regard to payment in foreign currency was referred to the Project Manager but the certificates continued to be settled in Kenya Shillings up to Certificate No 16. The Project Manager advised that certificates should be settled in two portions, 80% in US Dollars and 20% in Kenya Shillings.

3897) In June 2017, the contractor wrote to the Project Manager requesting the Parliamentary Service Commission to be declared to be in fundamental breach of the contract for not making payments in two portions of 80% in US dollars and 20% in Kenya shillings and threatened to terminate the contract and stall the works. The Project Manager wrote to the Commission and advised that by not paying as stipulated in the contract, the Commission was in fundamental breach of the contract and the contractor had a right to terminate the contract.

3898) The Commission immediately sought the advice of the Public Procurement Regulatory Authority but the advisory from PPRA was only communicated to the Commission in November 2017. Due to delays in implementation of the project and the threatened suspension of the project, the Commission agreed in July 2017 to settle the certificates as advised by the Project Manager on condition that the PSC will recover any overpayments made to the contractor after the advisory by PPRA.

3899) There was some back and forth between the Project Manager, the main contractor and the Commission concerning the issue of payment in foreign currency as well as the exact interpretation of the advisory from PPRA. It was eventually agreed between the Project Manager and the Commission that all previous payments in foreign currency would be recovered from the main contractor and that future payments would be made strictly in accordance with the provisions of the contract and advisory from PPRA. A letter by the Principal Secretary Ref No PW/A/200/204/87 dated 18th February 2020 was attached for perusal by the Committee.

3900) Following the above letter an amount of KSh.397,485,020.24 was recovered from the main contractor in Certificate No 48. The balance shall be recovered from future certificates. There shall therefore be no money lost on conversion of Kenya Shillings to US dollars.

Committee Observations and Findings

3901) The Committee observed that:

1) The explanation by the Accounting Officer on why the works on the storeyed building were delayed was satisfactory;
2) The interest on delayed payments will still persist unless a deliberate effort is made to address the delay in release of exchequers by the National Treasury;
3) There was a balance of Kshs.28,914,985 arising from the foreign currency payments which was yet to be recovered from the pending certificates;
4) The completion period had been extended by another one to June 2021 from June 2020;
5) There was the increase in the cost of the building from KSh.5.89B to KSh.7.0B. There had been delays on the part of the Project Manager (Ministry of Public Works in responding to a number of issues raised including issuance of payment certificates); and
6) The Committee marked the matter as resolved.

Committee Recommendations

3902) The Committee recommended that:

1) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
4) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

1415. Goods not accounted for in the stores

3903) Stores records shows that during year under review, Parliamentary Service Commission procured tyres at a cost of KSh.1,774,863. However, the tyres were not taken on charge in the stores ledgers. It has not been possible under the circumstances to confirm whether these goods were delivered and met the required specifications.

3904) The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Submission by the Accounting Officer

3905) The Accounting Officer submitted that the Parliamentary Service Commission procured and paid KSh.1,774,863.00 for tyres during the financial year under review. The tyres were procured from the National Oil Corporation through the existing contract between Commission and the National oil Corporation. The tyres were supplied and fitted to the vehicles by Kingsway Tyres Ltd who are the suppliers to National Oil Corporation of Kenya and delivery notes signed for receipt of goods and fitting. The replaced tyres were delivered to the store for safe keeping.

3906) The Accounting Officer stated that he had taken note of the observation by the Auditor General and instructed the transport Officer to ensure that newly purchased tyres for motor vehicles shall be delivered to the stores for inspection and acceptance in accordance with the provisions of the Public Procurement and Asset Disposal Act, 2015.

Committee Observations and Findings

3907) The Committee observed that:

1) The Accounting Officer had put in place stringent measures to ensure adherence to the established standard procedures and procurement regulations by officers; and
2) The Committee marked the matter as resolved.

Committee Recommendation

3908) The Committee recommended that:

1) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2) **The Accounting Officer must at all times ensure that he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
3) **The Accounting Officer must at all times ensure that he prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

4) **The Accounting Officer must at all times ensure that he provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

3909) The Committee observed that Paragraph 1416 to 1422 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

56.0. NATIONAL ASSEMBLY

FINANCIAL STATEMENTS FOR VOTE 2042

Mr. Michael Sialai, the Accounting Officer for the National Assembly (Vote 2042) appeared before the Committee on 27th October 2020 to adduce evidence on the Audited Financial Statements for the National Assembly (Vote 2042) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Ms. Serah Kioko - Deputy Clerk
2. Mr. Peter Meikoki - Deputy Director Finance/ Head of Accounts NA
3. Mr. Kennedy Malinda - Chief Procurement Officer, National Assembly

Basis for Qualified Opinion

1423. Pending Bills

3910) As disclosed in Note 14 to the financial statements, the National Assembly had pending bills totalling KSh.268,727,762 as at 30 June 2018. The bills were not paid but instead carried forward to 2018/2019 financial year. Had these bills been paid and the expenditure charged to the accounts for 2017/2018, the statement of receipts and payments for the year would have reflected a reduced surplus of KSh.25,935,410 instead of KSh.294,663,172 now shown. Failure to settle bills in the year they are incurred affects adversely subsequent year's budget provisions to which they have to be charged.

Submission by the Accounting Officer

3911) The Accounting Officer submitted that the amounts were pending bills for goods and services supplied and rendered, allowances to various Members and staff during the year but remained unpaid by closure of financial year. This was occasioned by: -

(i) Processing challenges caused by IFMIS connectivity towards the end of the financial year such that we could not complete all the payment processes to the end for remittance to Central Bank through Internet Banking.
(ii) The exchequer requisitions were done but received on the last day of June yet there were systems breakdowns.
(iii) The available cash balances at the closure of financial year were surrendered to Treasury which could have been utilized to retire the bills instead.
(iv) Parliament was experiencing some transitional issues during that year after the separation of the Vote into Votes 2041 and 2042 with some being shared services initially procured under the one vote but required to be paid under the separate votes.

(v) Bills for procurements of air tickets and hotel accommodation were submitted when the IFMIS System was already closed and commitments could not be reversed to clear them.
(vi) Late submission and receiving of invoices by Suppliers and Service Providers towards closure of Financial Year.

3912) However, the position has since changed with KSh.260,080,039.00 of the total pending bills having been retired during the subsequent Financial Years with balance of KSh.8,647,723.00 yet to be settled due to lack of enough supporting documents or the amounts are disputed. All efforts are being made to retire any pending bill that meets the threshold of payment.

Committee Observations and Findings

3913) The Committee observed that:

1) The Accounting Officer had so far settled the bills outstanding as at 30 June 2018 with the balance of Kshs.8,647,723 included in the bills unpaid as at 30 June 2020. As at the date of appearance before the Committee the amount had been reduced to KSh.2M; and
2) The Committee marked the matter as resolved.

Committee Recommendations

3914) The Committee recommended that:

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills exist, they should form a first charge in the subsequent financial year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion
1424. Procurement Of Vehicles

3915) Disclosed under Note 7 to the financial statements on acquisition of assets was an expenditure of KSh.29,783,063 relating to purchase of vehicles and other transport equipment. The expenditure includes an amount of KSh.10,742,062 in respect of purchase of a Mercedes Benz E250 from a local company.

3916) However, the vehicle despite being new, has had frequent breakdowns resulting in the National Assembly incurring exorbitant costs in its repair and maintenance. In the circumstances, it is doubtful whether the National Assembly got value for money on the expenditure of KSh.10,742,062 incurred on the purchase of the motor vehicle.

Submission by the Accounting Officer

3917) The Accounting Officer submitted that the above vehicle was procured by the National Assembly from the Dealer (M/s DT Dobie) in June 2017 at a cost of KSh.10,742,062.00. This vehicle was procured under the Government Contract and was duly inspected by the Chief Mechanical and Transport Engineer under the Ministry of Transport Housing, Infrastructure and Urban Development. As required under the Public Procurement and Asset Disposal Act, Inspection and Acceptance was also conducted and the vehicle duly accepted. The certificate was attached.

3918) Approximately five Months into its use, the vehicle started developing engine related problems which were duly reported to the vehicle Dealer. The frequency of these breakdowns and related costs necessitated engagements with the dealer with the National Assembly demanding for replacement of the vehicle in August 2018. Copies were attached for perusal by the Committee.

3919) On this demand, the Dealer undertook to conclusively address the issues with the vehicle. Not satisfied with the Dealer's promise, the National Assembly through its Litigation and Compliance team did another demand letter in November, 2018. Copies were attached for perusal by the Committee.

3920) In February, 2019, the National Assembly via letter Ref: DLC/PRS/2/99MM engaged the Office of the Chief Mechanical and Transport Engineer, Ministry of Transport who advised that the issues with the vehicle were to be covered by the Dealer under the warranty. Two engineers were appointed to address this issue with the Dealer and ensure that the vehicle was satisfactorily repaired at no cost to the National Assembly. Copies were attached for perusal by the Committee.

3921) A joint inspection of the vehicle was conducted on 11th April, 2019. The inspection was conducted by appointed engineers from the Ministry of Transport together with the Dealer and representative from Parliament. The inspection revealed that the Catalytic Converter (an emission control system) was damaged beyond repair. It was resolved that DT Dobie should procure and replace the converter at their cost. See the attached minutes/ report of the inspection team. Copies were attached for perusal by the Committee.

3922) After the replacement of the said Catalytic Converter, on 13th May, 2019 another meeting was held. It was resolved that the vehicle should be subjected to and monitored under normal use. This motor vehicle has been in use since then and has NOT developed any further mechanical connected issues. Copies of work tickets were attached for perusal by the Committee.

3923) Subject to a post repair inspection to be conducted by the Ministry of Transport, it is evident that the motor vehicle has been properly repaired by the dealer at no expense to the National Assembly. The vehicle is in good working condition and continues to run and provide services to the National Assembly satisfactorily.

Committee Observations and Findings

3924) The Committee observed that:

i. The Accounting Officer had provided the post repair mechanical inspection report from the State Department of Transport; and
ii. The Committee marked the matter as resolved.

Committee Recommendation

3925) The Committee recommended that:

The matter be resolved..

3926) <u>The Committee observed that Paragraph 1425 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.</u>

57.0. JUDICIAL SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2051

Ms. Anne Atieno Amadi, the Secretary and Accounting Officer for the Judicial Service Commission appeared before the Committee accompanied by the following officers: -

1. Ms. Sharon Mwanyuli - Senior Resident Magistrate
2. Ms. Nancy Kanyago - Projects Manager
3. Mr. Wycliffe Wanga - Accounts Controller

And submitted as follows:

Unqualified Opinion

The Committee observed that Paragraph 1426 on lawfulness and effectiveness in use of public resources was discussed and found as satisfactory.

Other Matter

1426. Budget and Budgetary Performance

1426.1 Receipts

3927) The Commission had budgeted for exchequer receipts totalling KSh.283,537,700 against actual receipts for the year of KSh.196,978,268 resulting to a shortfall of KSh.86,559,432 or 31. The shortfall was attributed to non-release of budgeted exchequer issues by the National Treasury.

The Committee was concerned that the Accounting Officer did not provide any contingency measures put in place to address the shortfall of KSh.86,559,432.

1426.2 Expenditure

3928) The Commission had budgeted for expenditure totalling KSh.283,537,700 but actual expenditure for the year under audit amounted to KSh.193,212,632 resulting to an under expenditure of KSh.90,325,068 or 32%.

3929) The under expenditure was attributed to non-issuance by the National Treasury of the final exchequer of KSh.55,260,000 which therefore led the Commission closing the year with pending bills of KSh.43,662,463.

Committee Observation

3930) The Committee was concerned that the Accounting Officer did not provide any strategic measures put in place to address expenditure gaps attributed to budget cuts. Committee Observed that staff capacity of the finance department was wanting.

Committee Recommendation

3931) Department of finance is critical for the JSC, therefore recruitment of the substantive Chief Finance Officer should be initiated and completed within three months of tabling and adoption of this report.

3932) The Committee observed that Paragraph 1428 to 1429 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

58.0. COMMISSION ON REVENUE ALLOCATION

FINANCIAL STATEMENTS FOR VOTE 2061

Dr. Moses Sichei, the Chief Executive Officer and the Secretary to Commission on Revenue Allocation (Vote 2061) appeared before the committee on 3rd January 2021 to adduce evidence on the Audited Financial Statements for the National Assembly (Vote 2042 Commission on Revenue Allocation (Vote 2061)) for the Financial Year 2017/2018. (Minutes of the Committee Sittings and submissions tabled by the Accounting Officer are attached as annexed to this report). The Accounting Officer was accompanied by the following:

1. **Dr. Jane Kiringai - Chairperson, CRA**
2. **Mr. Peter Gachuba - Commissioner, CRA**
3. **Ms. Angela Kariuki - Director Corporate Services**
4. **Ms. Maureen Junge - Finance Manager**

He made the following submissions:

1431 - Irregular payment of Airtime Allowance

3933) During the year under review, the Commission made payments of KSh.2,784,000 and KSh.3,166,865 as telephone allowance to Commissioners and Commission employees respectively. Included in these payments is an overpayment of KSh.1,232,000 and KSh.154,000 respectively both totaling to KSh.1,386,000.

3934) A review of the payroll for the year under review revealed that each Commissioner and the Chief Executive were each paid KSh.29,000 per month contrary to the Gazette Notice No. 6519 issued on 7th July 2017 which indicate that state officers in full time Constitutional Commissions and Independent offices be paid airtime allowances at the rate of KSh.15,000 per month.

3935) There was therefore an over payment of KSh.14,000 per month to each Commissioner and the Chief Executive for a period of eleven (11) months which is in contravention of the Kenya Gazette Notice No. 6519 issued on 7th July 2017 on allowances payable to 'State Officers in full time Constitutional Commissions and Independent Offices.

Submission by the Accounting Officer

3936) At the time of appointment of the Commissioners on 31st December 2016; the effective Circular on Telephone Allowances was Ref No. OP/CAB/15 dated 5th March 2010. In computing the mobile phone airtime, the Circular referred to; mobile phone airtime of KSh.20,000, residential telephone line of KSh.5000, Fax, and email line at the residential place of KSh.4000 totaling to KSh.29,000. The Salaries and Remuneration Commission then issued a subsequent Gazette Notice 6519 dated 10th July 2017 that prescribed a telephone allowance of 15,000 which the Commission inadvertently interpreted that was not applicable to the Commissioners as they had been appointed on 31st December 2016. Upon clarification from the Auditors during the Audit, the Commission proceeded to recover the overpaid amounts.

Action by CRA:

3937) The Commission recovered the overpaid amount of KSh.1,386,000 in full in FY 2018/19 from both the Commissioners and the Chief Executive. The recovery above, led to a prior year's adjustment of the Commission's audited accounts for FY 2017/18 to cater for the revision on telephone allowance payable to Commissioners and employees from KSh.2,784,000 and KSh.3,166,865 to KSh.1,552,000 and KSh.3,012,865 respectively.

Committee Observation

3938) The Committee observed that:

1) The Commission recovered the overpayment and made adjustments to the subsequent financial year's statement to reflect the correct position; and
2) The error was due to conflicting circular from the Salaries and Remunerations Commission and misinterpretation by the CRA.
3) The matter was resolved.

Other issues

3939) The Committee heard that the Commission is underfunded and request the committee to look on the issue as it does its recommendation.

Committee Recommendation

3940) The Committee recommended that:

1) **The explanation by the Commission and the subsequent recovery of the overpayment was satisfactory. The matter was therefore resolved.**
2) **The CS National Treasury and the National Assembly should always comply with the provisions of Article 249 (3) of the Constitution by ensuring adequate funds are allocated to enable each commission and independent office to perform its functions.**

59.0 PUBLIC SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2071

Unqualified Opinion

3941) The Committee observed that Paragraph 1434 to 1436 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

Committee Observations and Findings

3942) The Committee observed that:

1) There were no material issues noted during the audit of the financial statements of the Commission; and
2) The Office of the Public Service Commission had received an unqualified audit opinion in two successive financial years including FY 2017/2018.

Committee Commendation

3943) The Committee recommended that:

1) **The Accounting Officer and the team at the Public Service Commission should be commended for leading by example in keeping sound financial statements for the FY 2017/2018;**
2) **The CS for the National Treasury should within three months of the tabling and adoption of this report, develop a reward mechanism for Accounting Officers who demonstrate prudent public finance management to motivate and promote stewardship in the management of public resources.**

60.0. SALARIES AND REMUNERATION COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2081

Unqualified opinion

3944) The Committee observed that Paragraph 1437 to 1439 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

61.0. THE TEACHERS SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2091

Dr. Nancy Macharia, the Accounting Officer for the Teachers Service Commission (Vote 2091) appeared before the committee on 27th February 2020 to adduce evidence on the Audited Financial Statements for the Teachers Service Commission (Vote 2091) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	Mr. Frackline Choge	-	Head of Finance Department
2.	Mr. William Maina	-	Accounts
3.	Mr. Allan Sitima	-	Legal Officer
4.	Ms. Beatrice Obabu	-	Head of Corporate Communication

Basis for Qualified Opinion

1440. Accounts Receivables

3945) Note 9 to the financial statements reflects accounts receivables balance of Kshs.271,058,723 as at 30 June 2018.The figure of Ksh.271,058,723 includes unrecoverable losses of stores and cash losses amounting to Kshs.10,487,516 and Kshs.2,928,398 respectively, which as previously reported occurred between the years 1988 and 2000. The matter was investigated, and the Director of Public Prosecutions directed the suspect to be charged with the offence of stealing by person employed in the Public Service contrary to Section 280 of the penal code. A review of the matter during the year under review indicates that the suspect was charged, and the case is pending and that although the case was set for hearing on 19 March 2018, it was adjourned to 25 June 2018. The management has however, indicated that their legal officer is following up on the matter to ensure that it is finalized as soon as possible.

3946) In addition, included in the balance of Ksh.271,058,723 is a long outstanding Pay As You Earn (PAYE) amount of Kshs.68,802,494 still outstanding which was paid to Kenya Revenue Authority (KRA) on account of former teachers who deserted their jobs and their salaries were returned to the Commission. Available information indicates that KRA carried out an audit on the PAYE amount and as a result adjusted the figure downwards from Kshs.128,392,939 to Kshs.46,060,915 as at 30 June 2017. A review of the matter in February 2018 revealed that the Commission had received a refund of Kshs.46,057,935 from KRA on 23rd February 2018 and that it has sought authority to write-off the un-recoverable balance of Kshs.68,802,494 from the National Treasury on 10 April 2017 and a reminder on 30 January 2018. A review of the matter in 2017/2018 indicates the balance of Kshs.68,802,494 is still outstanding. The National Treasury responded to the letters from the Commission on 6 March

2018 and advised on the procedures to be followed when writing off losses. The commission wrote back on 11 July 2018 to the Principal Secretary, National Treasury requesting for authority to write-off the unrecoverable balance with the outlined procedure and additional evidence. However, no response from Treasury was availed for audit review as at the date of this report in the month of December 2018.

3947) In the circumstances, it has not been possible to confirm the recoverability of the accounts receivables balance of Kshs.271,058,723 for the year ended 30 June, 2018.

Submission from the Accounting Officer

Loss of Stores Ksh.10,487,516 (30 Cisco switches)

3948) The Accounting Officer reported that these were losses occasioned by theft of stores which the Commission followed up and the suspect was charged at the Kibera Law Courts vide O.B. NO.46/3/6/2013 with the offense of stealing by person employed in public service contrary to section 280 of the penal code. Though the Commission does not have control over the progress of the case, the Commission's legal officer was following up on the matter and has been able to ascertain from the court records that;

a) The Court heard all prosecution's witnesses and finalized proceedings on 14/2/2019;
b) The prosecution and defence rendered their respective submissions before Court on 4/3/2019; and
c) The Court's ruling on 12/3/2019 determined the Accused has a case to answer and next defence hearing date set for 12/6/2019, which was adjourned to 23rd December 2019.
d) On 23rd December 2019 the court further adjourned the case to 31st January 2020 when the matter will be mentioned.

Cash Losses Ksh.2,928,398

i. These were cash losses which occurred in the period 1988-2000 and the Commission followed up the matter in the Courts over several years culminating with the Investigating Officer's letter Ref: CID/IB/SEC/4/3/1/A/VOL.III/64 dated 5/9/2014 indicating the insurmountable challenges in charging the culprits. The Commission recommended and sought for the National Treasury's approval for write off vide letter Ref: TSC/FIN/32/VOL.IX/34 dated 9/6/17, followed with a reminder Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18 before recognizing the write off in its books.

ii. The National Treasury vide their letter Ref: AG/3/149/Vol.1/ (47) dated 6th March, 2018 responded and advised on the procedure to be followed when writing off losses and the Commission vide letter Ref: TSC/FIN/60/VOL.V/5 dated 11th July, 2018 followed the outlined procedure and attached additional evidence as requested. The National Treasury vide letter Ref: AG/3/149/Vol.1/ (54) dated 13th February, 2019 gave further guidelines that the Commission needed to follow in order to conclude the matter and the Commission has followed these new guidelines, re-submitted the request vide letter Ref: TSC/FIN/60/VOL.V/20 dated 5th March, 2019 and is awaiting conclusion of this matter.

iii. The Commission introduced a policy which requires that teachers' monthly salary be paid through bank accounts and currently there are no cash losses since all teachers are paid by Electronic Funds Transfer through their respective bank accounts.

Refund of PAYE Ksh.128,392,939

i. The Commission, as per Regulation 148(6) of the PFM Act Regulations, 2015 for the National Government sought approval for the write off of the un-recoverable balance of Kshs.68,802,494.55 from the National Treasury vide letter Ref: TSC/FIN/32/VOL.IX/34 dated 9/6/17, followed with a reminder Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18.

ii. The National Treasury reviewed documents submitted by the Commission and vide letter Ref: AG/3/149/Vol.1/ (56) dated 19th March, 2019 approved the write off and concluded this matter after concurring that the threshold and procedure required by section 69(2) and Regulation 148(6) of the PFM Act (2012) had been met.

Committee Observations and Findings

3949) The Committee observed that:

1. The matter on Loss of Stores of Ksh.10,487,516 (30 Cisco switches) was sub-judice;
2. The Commission had recommended for write off on Cash Losses of Ksh.2,928,398 and necessary procedure had been followed;
3. The National Treasury had approved write-off on Refund of PAYE of Ksh.128,392,939; and
4. The issue was marked as resolved.

1441. Property, Plant and Equipment

3950) The Committee observed that the matter was discussed during the Examination of the Accounts of the Commission for Financial Year 2017/18 and tissue was marked as resolved.

Other Matter

1442. Budgetary Control and Performance

3951) The Commission had a total budget of KSh.235,235,458 comprising of KSh.143,000,000 for development and KSh.218,235,458,000 for recurrent votes respectively. The Commission underutilized the budget on development funds by 96%. The management has however, explained that the development funds were provided in the 4th quarter of 2017/18 financial year through a supplementary budget. Further, the Commission had an annual recurrent budget of KSh.218,235,458,000 against actual expenditure of KSh.217,086,880,000 in the statement of comparative budget and actual amounts for the financial year ended 30 June 2018 indicating an absorption of 99%. From the above analysis, the Commission underutilized the budget on acquisition of assets by 34%. The under absorption of the approved budget is an indication of activities not implemented by the Commission which implies non delivery of goods and services to the Kenya citizens for the year ended 30 June 2018.Therefore, the stakeholders did not obtain full value for their resources.

Committee Observations and Findings

3952) The Committee observed that the matter was just for noting.

3953) The Committee observed that Paragraph 1443 to 1444 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

62.0. NATIONAL POLICE SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2101

Unqualified opinion

3954) The Committee observed that Paragraph 1445 to 1447 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

63.0. OFFICE OF THE CONTROLLER OF BUDGET

FINANCIAL STATEMENTS VOTE 2121

Unqualified Opinion

3955) The Committee observed that Paragraph 1448 to 1449 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

3956)

Conclusion

1450. There were no material issues noted on the effectiveness of internal controls, risk management and governance to provide a basis for my conclusion.

Committee Observations and Findings

3957) The Committee observed that the Office of the Controller of Budget had received an unqualified audit opinion in two successive financial years including FY 2017/2018.

Committee Commendation

3958) The Committee recommended that:

1) **The Accounting Officer and the team at the Office of the Controller of Budget be commended for its strict adherence to the principles and guidelines of public finance management in keeping compliant financial statements; and**
2) **The CS for the National Treasury should within three months of the tabling and adoption of this report, develop a reward mechanism for Accounting Officers who demonstrate prudent public finance management to motivate and promote stewardship in the management of public resources.**

64.0. THE COMMISSION ON ADMINISTRATIVE JUSTICE

FINANCIAL STATEMENTS FOR VOTE 2131

Mr. Leonard S. Ngaluma the Chief Executive Officer and the Secretary to the Commission on Administrative Justive (Vote 2131) appeared before the committee on 27th February 2020 to adduce evidence on the Audited Financial Statements for the Commission **on Administrative Justive (Vote 2131) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:**

1. Mr. Daniel N. Karomo - Director Cooperate Services
2. Ms. Viola Ochola - Director Access to information
3. M. O Opiyo - Senior Accountant
4. Ms. Christine Omollo - Assistant Director- HR

3959) And submitted as follows:

1. That the Commission acquired Unqualified Opinion for Financial Year ended June 2018
2. That this was attributed by the support it got from the Committee and also dedicated staffs from the Commission
3. That the budget allocated to them on yearly budget does not meet the Commissions expanded mandate.

Committee Observations

3960) The Committee observed that the Commission on Administrative Justice indeed obtained unqualified opinion for Financial Year 2016/17.

3961) 65.0. NATIONAL GENDER AND EQUALITY COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2141

Unqualified opinion

3962) The Committee observed that Paragraph 1455 to 1457 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

66.0. INDEPENDENT POLICING OVERSIGHT AUTHORITY

FINANCIAL STATEMENTS FOR VOTE 2151

Unqualified opinion

3963) The Committee observed that Paragraph 1458 to 1460 on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance were discussed and found as satisfactory.

SIGNATURE:………………………………………. ….DATE: **23/03/2021**

HON. JAMES OPIYO WANDAYI, CBS, MP