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REPUBLIC OF KENYA

Paper laid by Hon. Wandayi, MP Chairperson

NATIONAL ASSEMBLY

TWELFTH PARLIAMENT– SECOND SESSION

DIRECTORATE OF COMMITTEE SERVICES

THE PUBLIC ACCOUNTS COMMITTEE

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

FOR THE

FINANCIAL YEAR ENDED 30TH JUNE 2015

NOVEMBER 2018

LIST OF ABBREVIATIONS

CHAIRPERSON'S FOREWORD

1.0 INTRODUCTION

1.1 Establishment of the Public Accounts Committee

1.2 Mandate of the Committee

1.3 Guiding Principles

1.4 Committee Membership

1.5 Committee Secretariat 1

2.0. GENERAL OBSERVATIONS AND RECOMMENDATIONS 2

OTHER GENERAL RECOMMENDATIONS 9

2.0. THE NATIONAL TREASURY 10

3.0. THE PRESIDENCY 96

4.0. MINISTRY OF DEFENCE 98

5.0. MINISTRY OF FOREIGN AFFAIRS 105

6.0. MINISTRY OF HEALTH 123

7.0 MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT 141

8.0. MINISTRY OF INFORMATION, COMMUNICATION AND TECHNOLOGY 147

9.0. MINISTRY OF SPORTS, CULTURE AND THE ARTS 160

10.0. MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES 175

11.0. MINISTRY OF ENERGY AND PETROLEUM 200

12.0. MINISTRY OF INDUSTRIALISATION AND ENTERPRISE DEVELOPMENT 207

14.0. OFFICE OF THE ATTORNEY-GENERAL AND DEPARTMENT OF JUSTICE 231

15.0. JUDICIARY 239

16.0. ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) 265

17.0. NATIONAL INTELLIGENCE SERVICE 266

18.0. OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS 267

19.0. COMMISSION FOR IMPLEMENTATION OF THE CONSTITUTION 268

20.0. OFFICE OF THE REGISTRAR OF POLITICAL PARTIES 272

21.0. WITNESS PROTECTION AGENCY 273

22.0. MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT 274

22.1. STATE DEPARTMENT OF INTERIOR 274

22.2. STATE DEPARTMENT FOR COORDINATION OF NATIONAL GOVERNMENT 303

23.0. MINISTRY OF DEVOLUTION AND PLANNING 322

23.1. STATE DEPARTMENT OF PLANNING 322

23.2. STATE DEPARTMENT FOR DEVOLUTION 336

24.0. MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY 342

24.1. STATE DEPARTMENT OF EDUCATION 342

24.2. STATE DEPARTMENT OF SCIENCE AND TECHNOLOGY 387

25.0. MINISTRY OF TRANSPORT AND INFRASTRUCTURE 456

25.1. STATE DEPARTMENT OF INFRASTRUCTURE 456

25.2. STATE DEPARTMENT OF TRANSPORT 475

26.0. MINISTRY OF ENVIRONMENT, WATER AND NATURAL RESOURCES 489

26.1. STATE DEPARTMENT FOR ENVIRONMENT AND NATURAL RESOURCES 489

26.2. STATE DEPARTMENT FOR WATER AND REGIONAL AUTHORITY 512

27.0. MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES 542

27.1. STATE DEPARTMENT OF AGRICULTURE 542

27.2. STATE DEPARTMENT OF LIVESTOCK 579

27.3. THE STATE DEPARTMENT OF FISHERIES 590

28.0. MINISTRY OF EAST AFRICAN AFFAIRS, COMMERCE AND TOURISM 592

28.1. STATE DEPARTMENT OF EAST AFFRICAN AFFAIRS 592

28.2. STATE DEPARTMENT OF COMMERCE AND TOURISM 597

29.0. KENYA NATIONAL COMMISSION ON HUMAN RIGHTS 612

30.0. NATIONAL LAND COMMISSION 613

31.0. INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION 615

32.0. PARLIAMENTARY SERVICE COMMISSION 637

33.0. JUDICIAL SERVICE COMMISSION 640

34.0. COMMISSION ON REVENUE ALLOCATION 643

35.0. PUBLIC SERVICE COMMISSION 644

36.0. SALARIES AND REMUNERATION COMMISSION 645

37.0. TEACHERS SERVICE COMMISSION **646**
38.0. NATIONAL POLICE SERVICE COMMISSION 650
39.0. THE OFFICE OF THE CONTROLLER OF BUDGET **656**
40.0. COMMISSION ON ADMINISTRATIVE JUSTICE **657**
41.0. NATIONAL GENDER AND EQUALITY COMMISSION **659**
42.0. TRUTH, JUSTICE AND RECONCILIATION COMMISSION **665**
43.0. INDEPENDENT POLICING OVERSIGHT AUTHORITY (IPOA) **668**

LIST OF ABBREVIATIONS

PAC	-	Public Accounts Committee
OAG	-	Office of the Auditor General
PFM	-	Public Finance Management Act
IPSAS	-	International Public Sector Accounting Standards
AIE	-	Authority to Incur Expenditure
MDAs	-	Ministries Departments and Agencies
PSASB	-	Public Sector Accounting Standard Board
KRA	-	Kenya Revenue Authority
GDP	-	Gross Development Product
SAGAs	-	Semi-Autonomous Government Agencies
CBK	-	Central Bank of Kenya
PAYE	-	Pay As You Earn
CoK	-	Constitution of Kenya
EACC	-	Ethics and Anti-Corruption Commission
DCI	-	Director Criminal Investigations
DPP	-	Director of Public Prosecution
PMG	-	Paymaster General
VAT	-	Value Added Tax
IDB	-	Industrial Development Bank
KCB	-	Kenya Commercial Bank
CSFC	-	Cereals and Sugar Finance Corporation
KLLSF	-	Kenya Local Loans Support Fund
CFS	-	Consolidated Fund Services
PMIS	-	Pension Information Management System
PIN	-	Personal Identification Number
CoB	-	Controller of Budget
PSSSA	-	Public Servcie Superannuation Scheme Act
KPLC	-	Kenya Power and Lighting Company
EABL	-	East African Breweries Limited
JCF	-	Joint Consolidated Fund
KEMRI	-	Kenya Medical Research Institute

GFS	-	Government Financial Statistics
MTC	-	Ministerial Tender Committee
AIA	-	Appropriation In Aid
LPO	-	Local Purchase Order
GAA	-	Government Advertising Agency
ICTA	-	Information Communication Technology Authority
NOFBI	-	National Optic Fiber Backbone Infrastructure
KTCIP	-	Kenya Transparency Communication Infrastructure Project
KIMC	-	Kenya Institute of Mass Communication
IFMIS	-	Integrated Financial Management Information System
ICDC	-	Industrial and Commercial Development Corporation
MOU	-	Memorandum of Understanding
FEPACI	-	Pan-African Federation of Film
NOCK	-	National Oil Company of Kenya
UNDP	-	United Nations Development Programme
CBS	-	Commander of the Burning Spear
USAID	-	United States Agency for International Development
UNICEF	-	United Nations Children's' Fund
CRJ	-	Chief Registrar of Judiciary
NHIF	-	National Hospital Insurance Fund
NCLR	-	National Council for Law Reporting
JSC	-	Judicial Service Commission
NCAJ	-	National Council for Administration of Justice
KPA	-	Kenya Ports Authority
KCAA	-	Kenya Civil Aviation Authority
NPS	-	National Police Service
NPSC	-	National Police Service Commission
CRBR	-	Counter Receipt Book Registers
KPTC	-	Kenya Posts and Telecommunication Corporation
GSU	-	General Service Unit
KPSTC	-	Kenya Police Service Training College
AGL	-	Above Ground Level
KCFNMS	-	Kenya Citizens and Foreign National Management

SRC	-	Salaries and Remuneration Commission
SCAC	-	State Corporation Advisory Committee
RDU	-	Rapid Deployment Unit
MOHA	-	Ministry of Home Affairs
OOP	-	Office of the President
YEDF	-	Youth Enterprise Development Fund
IGRTC	-	Inter-Governmental Relations Technical Committee
MTEF	-	Medium Term Expenditure Framework
NDMA	-	National Disaster Management Authority
NCCC	-	National Consultative Coordination Committee
IDPs	-	Internally Displaced Persons
UNHCR	-	United Nations High Commissioner for Refugees
PA-K	-	President's Award Kenya
MOE	-	Ministry of Education
VAG	-	Volunteer Graduate Assistants
KEPSHA	-	Kenya Primary School Heads Association
NALM	-	National Assets and Liabilities Management
MOYAS	-	Ministry of Youth Affairs and Sports
DYT	-	Department of Youth Training
KALRO	-	Kenya Agricultural and Livestock Research Organization
ASCU	-	Agricultural Sector Coordinating Unit
NCPB	-	National Cereals and Produce Board
ATC	-	Agricultural Training Centres
TMEA	-	Trade Mark East Africa
EAC	-	East African Community

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 honor 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 2014/2015.

Honourable Speaker, the importance of parliamentary scrutiny in public value management cannot be over-emphasized. 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.

This report is a culmination of a long journey walked by PAC in the scrutiny of value for money, efficiency and effectiveness of public spending and in holding the Government and its officers to account for the delivery of public services.

Honourable Speaker, the Committee is ever cognizant of the enormous responsibility bestowed upon it by the Constitution and House Standing Orders. This responsibility, inevitably, comes with high public expectations. Moreover, under Article 203(3) of the Constitution, the equitable share of the revenue raised nationally that is allocated to county governments is to be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

The Committee, in an endeavor to meet the tight constitutional timelines, has had to be innovative in its approach to dealing with the huge backlog of unexamined audited accounts inherited from the 11th Parliament. I am pleased to report that at the time of writing this report, the Committee was 70% through with the examination of the 2015/2016 financial statements, whose report will be tabled in the House at the beginning of the Third Session in 2019. The Committee has now set for itself a target of up-to-date examination of audited financial statements beginning with 2017/2018 financial year.

The Committee held a total of 76 sittings during which it received both written and oral evidence from Accounting Officers on audit queries raised by the Auditor-General. Minutes of the Committee's meetings are annexed to this report.

A major challenge that the Committee encountered, from time to time, is the high level of unpreparedness on the part of a number of Accounting Officers which necessitated early adjournment of scheduled meetings. In addition, other Accounting officers sought last-minute postponement of their appearance before the Committee, further stretching the Committee's limited time.

I must, however, commend the following Accounting Officers who, in the course of their interaction with the Committee, demonstrated remarkable grasp of issues falling within their respective dockets, thus aiding the Committee in its work considerably: Mr. Nelson Marwa, Prof. Japheth M. Ntiba, Dr. (Eng.) Karanja Kibicho, Dr. Kamau Thugge, Dr. Richard Lessiyampe, Ms. Anne Amadi, Amb. Macharia Kamau, Dr. Belio Kipsang, Prof. Collette Suda, Mr. Peter K. Tum, Ms. Agnes Odhiambo and Dr. Nancy Macharia. I urge all other officers to emulate these examples.

Honourable Speaker, the Office of the Auditor-General (OAG) continues to meticulously highlight cases of questionable expenditure of public funds in its annual reports. There is, however, a real risk of reducing this serious contribution by the OAG into a mere ritual if no action is taken on those findings.

The Committee has, therefore, upon careful evaluation of the evidence before it, taken a pragmatic step by holding to account individual officers for their various acts of omission and/or commission that occasioned loss of public funds. In some cases, the Committee has invoked the provisions of Article 226(5) of the Constitution and recommended that the concerned officers make good the losses that have arisen under their watch, upon conclusive investigations by the relevant investigative agencies. Parliament must breathe life to this progressive constitutional provision that has, apparently, been in limbo since the promulgation of the Constitution in 2010.

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, the Office of the Auditor General, the National Treasury and those Accounting Officers who dutifully honored their obligations and made quality submissions before the Committee. Special appreciation also goes to the Directorate of Committee Services and, in particular, members of the Committee secretariat who have had to go beyond the normal call of duty on numerous occasions.

The commitment and devotion to duty of all those involved in this arduous task made the work of the Committee and production of this report a success. I thank each one of them.

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

HON. JAMES OPIYO WANDAYI, MP

1.0 INTRODUCTION

1.1 Establishment of the Public Accounts Committee

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

1.2 Mandate of the Committee

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

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

1.3 Guiding Principles

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

1) Constitutional Principles on Public Finance

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

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

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

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

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

2) Direct Personal Liability

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

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

3) Obligations of Accounting Officers

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

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

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

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

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

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

1.4 Committee Membership

Chairperson

The Hon. James OpiyoWandayi, MP

Vice- Chairperson

The Hon. Jessica Nduku Kiko Mbalu, MP

The Hon. Junet Mohammed Nuh, MP

The Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, MP

The Hon. Tom J. F. Kajwang, MP

The Hon. Christopher Doye Nakuleu, MP

The Hon. Patrick Makau King'ola, MP

The Hon. (Dr.) Otiende Amollo, MP

The Hon. Gideon KoskeKimutai, MP

The Hon. Francis Kuria Kimani, MP

The Hon. Samson Ndindi Nyoro, MP

The Hon. Peter Francis Masara, MP

The Hon. Michael Thoyah Kingi, MP

The Hon. Florence Mwikai Mutua, MP

The Hon. James Gichuhi Mwangi, MP

The Hon. Daniel Kipkogei Rono, MP

The Hon. Mathias Robi Nyamabe, MP

The Hon. Qalicha GufuWario, MP

The Hon. Michael Mwangi Muchira, MP

1.5 Committee Secretariat

Oscar Namulanda

Principal Clerk Assistant II

NebertIkai

Third Clerk Assistant

Josh Kosiba

Senior Fiscal Analyst

Sidney Okumu Lugaga

Legal Counsel II

Caroline M. Njue

Research Officer III

Salat Abdi Ali

Senior Serjeant At Arms

Stephen Nyakuti

Audio Officer III

2.0. GENERAL OBSERVATIONS AND RECOMMENDATIONS

1.0 Introduction

We want to draw the attention of the House to the following general observations arising from the Committee proceedings, evidence taking and selected project visits and findings that relate to the fiscal year under review: -

1. The Implementation of the approved budget for the financial year ended 30th June 2015-

The Accounting Officers of Judiciary, Parliament, constitutional commissions and independent offices are mandated to monitor, evaluate and oversee the management of public finances intheir respective entities including ensuring proper management and control of, and accounting for their finances in order to promote the efficient and effective use ofbudgetary resources pursuant to the provisions of Section 66 of the Public Finance Management (PFM) Act 2012. The Committee made the following general observations on the implementation of the approved budget for the period under review:

(a) Budget Under-expenditure: The audited financial statements for the financial year 2014/2015 for the national government showed total actual expenditure of Kshs. 1,677,505,263,727 representing 90 percent of the gross estimated expenditure of Kshs. 1,870,106,536,391. The actual expenditure of Kshs. 1,677,505,263,727 represented an increase of Kshs. 408,885,553,491 or 32percent when compared with actual expenditure of Kshs. 1,268,619,710,236 for the financial year 2013/2014. There was a gross under-expenditure of Kshs. 192,601,272,664 made up of under expenditure of Kshs. 212,574,173,606 for combined Recurrent and Development Votes and over-expenditure of Kshs. 19,972,900,942 for Consolidated Fund Services (CFS). The Accounting Officers attributed the budget under-expenditures mainly to inadequate and or delays in exchequerissues, delayeddisbursement of donor funds, persistent systemic challenges with the Integrated Financial Management Information Systems (IFMIS), and challenges in implementation of procurement laws & procedures.

(b) Outstanding Imprest: The Accounting Officers and the various Authority to incur Expenditures (AIE) holders are mandated to manage imprest transactions in the various national government entities pursuant to Regulation 92 of the PFM (National Government) Regulations 2015. The Committee observed instances where some Accounting Officers and or AIE holders failed to ensure that due imprests issued to officers were recovered within the stipulated time as per the provisions of PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015. Total imprest balances amounting to Kshs. 117,553,816 which ought to have been recovered or accounted for on or before 30th June 2015 were not recovered or accounted for on the due dates.

(c) **Pending Bills: -** The Committee observed that during the year ended 30th June 2015, a number of Ministries and Departments did not settle bills amounting to Kshs, 43,212,107,778 which was an increase of 160 percent from the FY 2013/2014 figure of Kshs. 16,638,164,142. The total amount of pending bills of Kshs 43,212,107,778 comprised of Kshs. 17,168,420,458 and Kshs. 20,731,068,491 under Recurrent and Development Votes, respectively and a further Kshs. 5,312,618,829 not classified. The following Ministries, Departments and Commissions had a significant share of the total pending bills during the period State Department for Planning Ksh. 7,261,076,350; State Department for Interior Kshs. 5,070,255,152; Ministry of Health Kshs. 4,791,655,574; and Ministry of Defense Kshs. 4,187,353,000. The Committee agreed with the Accounting Officer for the National Treasury in his submission that the trend of accumulation of pending bills by the National Treasury and other government entities distort the implementation of successive year's budget.These pending bills are occasioned by various factors mainly delays/non release of exchequers, variations of estimated costs of projects by the Accounting Officers, austerity measures enforced through budget cuts in the supplementary budget estimates, and weak budget controls including unrealistic annual cash flow plans**.**

2. **Statement on Audited Accounts of Revenue for the period ending 30th June 2015: -** Article 203 (2) of the Constitution provides that for every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen per cent of all revenue collected by the national government. The amount of equitable share of national revenue for the county government is calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly. The revenue statements for the FY 2014/2015 indicated that total revenue collection of Kshs. 1,084,849,042,367 against estimated total receipts of Kshs. 1,161,439,163,509 resulting in an under-collection of revenue of Kshs. 76,590,121,142 or 6.6 percent. Further, there was arrears of revenue due and uncollected as at 30th June 2015 totalingKshs. 194,951,716,541.16 (Ksh. 195 billion) comprising of arrears for PAYE and Other Income Tax of Kshs. 136,404,717,386.00 (Ksh. 136.4 billion), arrears for VAT and Excise Taxes of Kshs. 21,603,491,849.00 (Ksh. 21.6 billion), arrears for loan redemptions of Kshs. 12,414,837,326.57 (Ksh. 12.4 billion) and arrears for loan interests of Kshs. 24,528,669,979.59 (Ksh. 24.5 billion). The persistent increase in arrears of national revenue denies the national and county governments the scarce financial resources that they need to undertake their development programmes and projects. Further, the huge arrears of revenue due and uncollected undermines the principle of equitable sharing of national revenue between the national and county government as enshrined in Articles 202 and 203 of the Constitution of Kenya, 2010.

Committee Recommendations: - The Accounting Officer, National Treasury and the Commissioner General, KRA must make demonstrable efforts in collecting and accounting for tax revenue arrears for PAYE and Other Income Tax.

3. **Statement on Outstanding Public Debt: -** The constitutional principles of public finances provide in Article 201(c) that the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations. The outstanding amount of public debt has increased over the years from Kshs. 1,382,382,194,875 reported in the year 2010/2011 to Kshs. 2,674,806,364,195 in the year 2014/2015, representing an increase of Kshs. 1,292,424,169,320 or approximately 93 percent. Further, the Auditor-General raised fundamental matters on the records of public debts. The Accounting Officer did not meet the basic requirement under International Public Sector Accounting Standards (IPSAS) under the cash basis of accounting contrary to the provisions of Section 80(2)(d) of the PFM Act 2012, reconciliation of outstanding public debts was not undertaken in timecontrary to the provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010. Had the arrears been effectively collected, the ratio of revenue share between National Government and Counties would have varied in percentages.

4. **Granting waivers of interest and penalties and write off/abandonment of tax including tax exemption:** The Cabinet Secretary and receivers of revenues for the national government have been granting waivers of interest and penalties and write off/abandonment of tax including tax exemption. However, full details of these waivers and exemptions have not been disclosed to the Auditor General in contravention of the provisions of Article 210 of the Constitution of Kenya, 2010 and Sections 76 and 82 of the PFM Act 2012. Further, these waivers and tax exemptions (tax expenditures) lead to losses of national revenue of approximately 2.5 percent of the GDP (approximately Ksh. 200 billion annually) as per studies by the Kenya Revenue Authority (KRA) and the World Bank.

   The Committee Recommends that:

   (a) The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report, prepare and submit to the Auditor General for audit review and subsequent reporting to Parliament, a comprehensive financial statement of tax waivers, exemptions, interest and penalties write off/abandonment for the period FY 2014/2015 to date in line with Article 210 of the Constitution of Kenya, 2010 and Sections77, 80 and 82 of the PFM Act 2012.

   (b) The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report prepare and submit to Parliament a comprehensive report on various statutory tax exemptions and incentives (tax holidays) offered by the Government of Kenya with a view to determining their efficacy in promoting investments and exports.

5. **Maintenance of Accounting Records: -** The Committee noted that there still exists persistent challenge of weak and inadequate maintenance of accounting records including

cashbooks and bank accounts across a number of ministries and state departments during the year under review. A number of financial statements differed materially with the ledgers and trial balances from where, ideally, they ought to have been derived. In addition, the ministries and state departments continued to prepare their respective financial statements on cash basis of accounting as instructed by National Treasury. This implies that capital assets are expensed as a result of which Statements of Assets as at the end of each financial year do not show a complete and true and fair view of the Ministry's or Department's assets. As at 30th June 2015 the Accounting Officers and the Auditor General could not know what each ministry/department owns and consequently the net worth of the Government of Kenya asa whole could not be determined.

Committee Recommendations: -

(a) Accounting officers must at all times ensure that all documentation relating to financial statements are submitted to the Auditor General pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.
(b) The Accounting Officer should prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time in compliance with the provisions of section 81(3) of the PFM Act 2012 and that the 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.
(c) The Committee recommends that Accounting Officers in liaison with the National Treasury should take immediate action to ensure that Ministries, Departments and Agencies (MDAs) adhere to International Public Sector Accounting Standards (IPSAS), in conformity with the Public Finance Management Act, 2012 and the relevant regulations.
(d) The Accounting Officers should ensure adequate training and capacity building of its PFM staff (Accountants, Finance Officers and Supply Chain Management Officers) to cope with the current and emergent standards on financial reporting. Action must be taken against those accountants who do not keep proper records and/or fail to report in compliance with the IPSAS framework, or do not present records as and when required by law.

6. **Challenges with the Integrated Financial Management Information Systems (IFMIS): -** The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies such as miss-posting in the IFMIS General Ledger. The Committee noted that this system has not improved financial management in Government. Accounting Officers have

confessed to the unhelpfulness of the system, and the Auditor General himself said the system has not improved financial tracking and reporting. In last year's report, the Committee noted that Treasury reported that they had re-engineered IFMIS and trained up to 6000 personnel on its use. These challenges have been continuously brought to the attention of Cabinet Secretary for the National Treasury by the Accounting Officers.The challenges have however continued unabated. The Committee was further informed that the certificate for ownership of the IFMIS software still rests with the supplier and therefore the country has no exclusive rights to ownership and improvement. The data back up by the Directorate of IFMIS is also wanting since the redundant system is yet to be fully implemented.

Committee Recommendation: - The Cabinet Secretary for the National Treasury conducts an independent systems audit on IFMIS, which is geared towards simplification of use and safeguards to public funds. Most importantly, the audit should provide a detailed Cost Benefit Analysis for assessing the effectiveness of the system vis-à-vis the actual investment on IFMIS to date.

7. **Delayed Exchequer Releases: - The** Committee observed that most of the projects and programs implementation lag behind due to inadequate and/or delayed exchequer releases. This situation exposes the Government to serious obligatory challenges caused by non-adherence to contract agreements and a basis for litigation from service providers which always leads to additional costs on interest charges and other ex-gratia payments.

   Committee Recommendations: - The Committee recommends that all project and program funds should be ring- fenced within the MDAs' budgets and timely requisitioning and releases be prioritized by the project managers and the National Treasury, respectively.

8. **Poor Project Planning and Management: -** The Committee undertook site visits to sample projects across the country and noted several cases where the performance of contractors was unacceptable. The serious cases noted included poor workmanship and slow progress of work on account of inefficiency, review of designs, and poor planning. This matter of unsatisfactory performance has similarly been reported severally in previous reports by the Auditor General yet no marked improvement has been noted.Moreover, the Committee noted that some contractors were fond of breaching contracts and abandoning/ frustrating Government projects. A notable example was the Contractor awarded works at Narok Law Courts, Eldama Ravine Law Courts and Lodwar Law Courts that were at low percentage levels of completion, over 20 months after works began.The Committee also noted that officers in the Public Works Department were an impediment to effective and efficient project implementation. They often inflate bills of quantities and fail to professionally supervise the works. This has led to contracting of private consultants to supervise the works, an extra cost to the tax payer.

Committee Recommendations:

(a) The Cabinet Secretary responsible for Public Works must identify all contractors with a poor track record in execution of Government contracts and blacklist them from being awarded national or county government contracts;

(b) The Cabinet Secretary responsible for Public Works should ensure that an up-to-date data base on the performance of contractors is maintained and that the data is publicized at all times to enable Government Departments make informed decisions when awarding contracts;

(c) Feasibility studies are to be undertaken and mitigation measures relating to infrastructure projects developed to enhance the implementation of key structural projects. This is evident in the Judiciary projects of construction of Law Courts in Narok, Eldama Ravine, Mavoko, Kakamega and Lodwar which suffered slow progress due to unforeseen bottlenecks in the work plan execution, resulting to unmet timelines;

(d) Interest payments arising from delay in honoring payment certificates will be avoided if MDAs prioritize the preparation of annual procurement plans and attendant work plans to facilitate prompt requisitioning of funds from the National Treasury. On the other hand, the National Treasury should ring-fence project funds for timely releases on requisitioning; and Rampant unapproved project work and cost variations on Government contracts; Project managers are advised to avoid such variations since they distort the project procurement plans given the variations will be above the recommended 25% limit on bill of quantities and costs. In this regard, any project manager who approves such variations without due process will be held personally liable and be surcharged and/or prosecuted.

9. **Fixed Asset Registers for MDAs: The** Accounting Officer in some MDAs failed to prepare in time comprehensive asset register with a complete asset listing as required under Regulation 143 of the PFM (National Government) Regulations 2015.The Committee observed a worrying trend in many MDAs which did not keep and maintain Fixed Asset Registers. It was thus impossible to establish ownership of assets belonging to MDAs. Top on the list was the Ministry of Devolution and Planning which not only lacked a proper Asset Register, but also had entries of assets whose values were grossly exaggerated. Absence of Asset Registers poses a grave risk of loss of public funds resulting from unaccounted for assets.

   Committee Recommendations: - The Committee strongly recommends that it is mandatory for all MDAs to keep comprehensive asset registers. Accounting Officers who fail to keep asset records in their respective MDAs will be held personally liable and be compelled to make good the loss of public funds arising from lack of proper asset registers.

10. **Unsecured Government Land: -** In the course of receiving evidence from Accounting Officers, the Committee noted with grave concern that a lot of Government land and Fixed Assets all over the country had no ownership documents, making them easy targets for unscrupulous land grabbers. The

most affected institutions include schools and prisons, which had progressively lost large chunks of land to greedy merchants.

Committee Recommendation: - The Committee directs the Cabinet Secretary responsible for Lands and the National Land Commission to immediately embark on the process of adjudicating all public land in Kenya so that the Ministry of lands can issue Title Deeds within six months after adoption of this report. The Committee further directs that all private organizations and/or individuals who may have acquired public land illegally should immediately have their Titles revoked with the ownership reverting to the public.

11. **Retention Accounts: -** The Committee observes that the actual balances in the retention accounts in various Ministries, Departments and Agencies have become difficult to ascertain thus rendering these accounts susceptible to misuse. Examples were noted in the Judiciary and the Ministry of Transport and Infrastructure where retention monies were applied haphazardly without clear procedures and guidelines.

    Committee Recommendations:- The Committee therefore recommends the setting up of Taskforce by the National Treasury to conduct detailed forensic audit of retention accounts in all MDAs and report within six months after adoption of this report.

12. **Pending bills on legal services:-** There were two scenarios that the Committee noted as contributing factors:-

    i) Appointment of law firms for entities by the Attorney General: There was need for entities to exercise greater control with respect to prequalifying, appointing and exercising oversight over law firms that undertake litigation. This was because it emerged in a number of cases concerning outstanding legal fees, that the law firms had been procured through the Office of the Attorney General and the latter exercised complete oversight in the handling of litigation matters. Further, the litigation matters appeared to have been handled casually leaving entities to incur unforeseen expenditure in the form of unfavorable awards and high legal fees charged running into billions of shillings by Law Firms appointed by the Attorney General.

    ii) Non-inclusion of relevant clauses to offset costs for failure to complete works or termination of contracts: Several situations emerged where government entities were incurring unplanned expenditure running into billions of shillings for procurement works that were not undertaken or incomplete because at the time of preparation of the contracts no clauses were included to offset any costs for works or services that were incomplete or not undertaken, or situations where the government entity incurs a high penalty for failure to meet specific terms or terminates a contract such as was observed with respect to Loan Agreements.

13. There was an emerging practice whereby an executive order would be issued classifying a private entity as a public entity and proceeding to provide funds to private entities. Consequently, the private entity would fail to account for the funds within the parameters and

standards outlined in the Public Finance Management Act. Examples of such entities are the Wildlife Clubs of Kenya and Child Welfare Society, among others.

OTHER GENERAL RECOMMENDATIONS

1. The Cabinet Secretary for the National Treasury should fast-track the adoption of IPSAS accrual basis of reporting by all national government entities including Semi-Autonomous Government Agencies (SAGAs), State Corporations and Constitutional Commissions and Independent Offices. IPSAS accruals basis of accounting and reporting provide a complete and reliable financial position of the Government and address challenges in accounting and reporting of revenue thereby promoting transparency and a better understanding of financial position of the whole government.

2. Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into a threemonths rolling basis and shall be adjusted to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

3. There is need to amend Section 67 of the PFM Act to introduce a new subsection 2 to provide that "every financial year before enactment of the annual appropriation bill, the Cabinet Secretary for the National Treasury shall submit to National Assembly for review a list of officers proposed for designation as accounting officers for the respective vote ensuing financial year. Any officer whose vote received a qualified audit report in the Auditor General's report shall not be eligible for designation as Accounting Officer unless cleared through writing by the Auditor General. Further, the Auditor General shall establish criteria for awarding a certificate of clearance for a person who served within the previous financial year or to be appointed to serve as an accounting officer."

2.0. THE NATIONAL TREASURY
FINANCIAL STATEMENTS FOR VOTE 107

Dr. Kamau Thugge, the Accounting Officer for Vote 107, the National Treasury accompanied by Mr. Mutua Kilaka, Principal Administrative Secretary; Ms. Esther Koimett; Director General – PIPM; Mr. Bernard Ndung'u, Director General Accounting and Quality Assurance; Dr. Geoffrey Mwau, Director General – BFEA; Mr. Benson Karongo, Commissioner – KRA; Mr. Shem Nyakuti, PS/ DoP; Mr. Kimathi Mugambi, Senior Chief Finance Officer; Mr. Francis Amuyunzu, Assistant Accountant General – Pensions; Mr. Bonface Simba, DS; Mr. Felix Ateng, H/GCA; Mr. Daniel Ndolo, Director Department of Pension Services; Mr. Peter M. Mulavu, D/Director SCMS; Mr. Daniel kagira, Deputy Commissioner – KRA; Ms. Beatrice Gathirwa, Director NALM; Ms. Damaris Onsomu, Principal Finance Officer; Ms. Lilian W. Dishon, Principal Accountant; Ms. Sheila Adwagah, Assistant Manager KRA; Mr. Joseph Simba, Accountant I – Pensions and Mr. Hubert Habil Anyanga, Accountant appeared before the Committee on 5th July 2018 to adduce evidence on the audited Financial Statements of Vote 107 the National Treasury for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for qualified opinion

1. Unaccounted for Fuel for Leased National Police Service Vehicles

The statement of receipts and payments for the year ended 30 June 2015 reflects an expenditure of Kshs. 14,866,425,403.00 in respect of use of goods and services. The amount of Kshs.14, 866,425,403.00 includes Kshs.532, 626,438.25 paid by the National Treasury for provision of fuel for leased National Police Service vehicles during the year under review. An audit inspection carried out in eighteen (18) County Headquarters, however, revealed various discrepancies between the monthly fuel invoices and the volume of fuel drawn as reflected in the motor vehicles record. As a result, fuel worth Kshs.17, 736,793.46 was not properly accounted for. Under the circumstances, propriety of expenditure amounting to Kshs.17, 736,793.46 incurred on provision of fuel for the leased National Police Service vehicles in the eighteen counties could not be confirmed.

Submission by the Accounting Officer

The Accounting Officer submitted that:

(i) **There were instances where vehicles were fueled but not recorded in the work ticket. This was an oversight. The drivers have since been taken through regular trainings on the management of vehicles. Also to mitigate the above a team of officers have been going round checking and sensitizing drivers on the same. By the time of audit some of the work tickets were not availed but they have been availed for audit review.**

(ii) **When the leased vehicles are at the garages, the service provider provides relief vehicles. Therefore, the fuel seen to have been drawn by motor vehicles in the garage was drawn by relief vehicles using same fuel cards. Security motor vehicles are not restricted to certain locations. When there is a security threat in a certain area the Commission may deploy vehicles to beef up security operations. For instance, when there were security issues in Lamu, a lorry allocated to Homa-Bay was redeployed albeit temporarily to this operation area and this motor vehicle drew fuel from Malindi and not Homa-Bay and same case applies to Kapedo Operation, Baragoi etc. Documents were submitted to the Auditor for verification.**

Committee Observations and Findings

i. **There was a discrepancy between the monthly fuel invoices and the volume of fuel drawn as reflected in the motor vehicles record. As a result, the Auditor General cannot confirm the propriety of fuel worth Kshs.17, 736,793.46 purportedly utilize by the lease police vehicles in the financial year.**

ii. **The decision for direct involvement by the National Treasury in management of leased police vehicle was reached and approved by the Cabinet after a report by PKF Consultants who were hired to carry out research and assessment on value for money in hiring of security equipment as opposed to buying.**

iii. **The Accounting Officer for the National Treasury did not avail in time some of the motor vehicles work tickets, fuel cards for audit verification contrary to the provision of Section 68(k) of the PFM Act 2012 to enable the Auditor General to discharge its mandate in line with Article 229(4).**

iv. **The committee marked the matter as resolved.**

Committee Recommendations

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

ii. **The Auditor General should within three (3) months of tabling this report undertake a comprehensive performance audit of the police motor vehicle leasing project with a view to determine whether the government is getting value for money in the project.**

2. Differences in Comparative Balances

The following comparative balances for the FY 2013/2014 reflected in the financial statements for the year ended 30 June 2015 differ with the balances reflected in the audited financial statements for the year 2013/2014 as follows:-

Item	Comparative Balance 2013/2014 Ksh	Audited Balance 2013/2014 Ksh	Difference Ksh
Bank Balances	**2,107,424,878.00**	**2,597,702,939.15**	**490,278,061.15**
Advances to other Ministries (MDAs)	**2,103,428,891.00**	**1,804,229,228.00**	**299,199,663.00**
Suspense Account	**285,191,951.00**	**94,113,532.15**	**191,078418.85**
Net Cash Flow from Operating Activities	**5,008,424,880.00**	**5,008,427,880.00**	**3,000.00**
Prior Year Adjustments	**992,787,861.00**	**-**	**992,787,861.00**

No disclosure has been made in the notes to the financial statements regarding re-statement of these prior period balances including the reasons for their restatement as required under International Public Sector Accounting Standard No. 3 on "Accounting Policies, Changes in Accounting Estimates and Errors".

Submission by the Accounting Officer

The Accounting Officer submitted that the Financial Statement for year ended 30th June, 2015 were later amended and the differing balances were disclosed in form of notes to the accounts note 29. The difference totaling Kshs.490, 278,061.15 arose from cash book adjustments to correct some posting errors in the audited accounts for 2013/2014:

ITEM	COMPARATIVE ADJUSTED	AUDITED BALANCE	DIFFERENCE
	BALANCE 2013/14	2013/14	
	(KSHS)	(KSHS)	(KSHS)
Ministry Of Finance Rec.	309,116,798.00	307,532,319.50	1,584,478.50
National Treasury Rec.	768,757,312.00	768,757,311.50	0.50
Ministry Of Finance Dev.	10,677,331.00	10,316,331.00	361,000.00
National Treasury Dev	17,645,863.00	17,645,863.00	-
Ministry Of Finance Deposit	677,758,270.00	815,692,844.00	(137,934,574.00)
National Treasury Deposit	323,469,304.00	677,758,270.00	(354,288,966.00)
TOTAL	2,107,424,878.00	2,597,702,939.00	(490,278,061.00)

He further stated that:

(i) **The Ministry of Finance Recurrent Cashbook bank balance was erroneously reflected as Ksh.307, 532,319.50 instead of Kshs.309, 116,798.00 resulting to a difference of Kshs.1, 584,478.50.**

(ii) **The Ministry of Finance Development Cashbook bank balance was reflected as Kshs.10, 316,331.00 instead of Kshs.10, 677,331.00 resulting to a difference of Kshs.361, 000.00.**

(iii) **Ministry of Finance Deposit Account Cash Book bank balance was reflected as Kshs.815, 692,844.00 instead of Kshs.677, 758,270.00 resulting to a difference of Kshs.137, 934,574.00.**

(iv) **National Treasury Deposit Account bank balance was reflected as Kshs.677, 758,270.00 instead of Kshs.323, 469,304.00. This occasioned a difference of Kshs.354, 288,966.00. The Kshs.677, 758,270.00 was for Ministry of Finance Deposit Account. (Appendix 2 v)**

(v) **The Net cash flow Kshs.3, 000.00 was an error in calculating the total. The items total for both set of data is Kshs.5, 008,424,880.00 but not Kshs.5, 008,427,880.00.**

(vi) **Advances to other Ministries, Departments and Agencies (MDAs) in the audited account of Kshs.1, 804,229,228.00 had excluded advances released to Public Financial Management Reforms (PFMR) of Kshs.299, 199,663.00. The cash was released on 4th June, 2014 as per the Cashbook of 2013/2014. However, the figure was revised to read Kshs.2, 103,428,891.00.**

(vii) **The audited accounts for 2013/2014 reflected suspense account of Kshs.94, 113,532.15 instead of Kshs.285, 191,951.00. The audited account had omitted some project funds released under suspense account to Microfinance sector support programme the amount was Kshs.153, 569,700.00 and Kenya Electronic Single Window System amounting to Kshs.131, 248,080.00.**

(viii) **An amount of Kshs.992, 787,861.00 was transferred from the ministry's bank accounts to Exchequer account and notification was issued by Central Bank of Kenya to adjust our books. The accounts for 2013/2014 financial year were amended to incorporate the transfer to Exchequer Account and the same forwarded to Kenya National Audit Office for audit review.**

Committee Observations and Findings

i. **The Accounting Officer for the National Treasury failed to provide in time to the Auditor General all confirmation document from the Central Bank of Kenya CBK to resolve the matter.**

ii. **The financial statements prepared by the National Treasury did not provide disclosures in the notes to the financial statements regarding re-statement of these prior period balances including the reasons for their restatement as required under International Public Sector Accounting Standard No. 3 on "Accounting Policies, Changes in Accounting Estimates and Errors".**

iii. The Committee marked the matter as resolved.

Committee Recommendation

i. **The Accounting Officer must at all time avail in time confirmation documents from the central bank for audit verification contrary to the provision of Section 68(2)(k) of the PFM Act 2012.**

ii. **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.**

3. **Un-Cleared Balances**

The statement of financial position as at 30 June 2015 reflects outstanding balances against various account items totaling Kshs. 2,443,054,224.00 as shown below: -

Particulars	**Amount (Kshs.)**
District Suspense Accounts	**672,374.00**
Suspense Account	**50,938,143.00**
Advances to other Ministries	**2,391,443,707.00**
Total	**2,443,054,224.00**

No reasons have been provided for failure to clear the balances from the books of account.

Submission by the Accounting Officer

The Accounting Officer submitted that the National Treasury Vote 107 statement of financial position as at 30th June 2015 reflected outstanding balances against various account items totaling to Kshs. 2,443,054,224 accounted for as follows:

District Suspense Account: - The statement of financial position reflected District suspense of Kshs672, 374.00 as at 30th June, 2015.These were unspent Authority to incur expenditure (A.I.Es) issued to various District Treasuries during the financial year 2014/2015.However, the Kshs.672, 374.00 has since been refunded in full by the respective District Treasuries.

Suspense Account: - The suspense account balance of Kshs.50, 938,143.00 reflected in the financial statement is an old balance carried forward for several years and is being addressed through the National Treasury taskforce on old balances. The report has already been finalized and forwarded to the clerk of National Assembly and the Auditor General. The task force recommended for adjustments to be made and was done in 2015/16 financial year.

Outstanding advances to other Ministries: - The financial position reflects an outstanding advance of Kshs.2, 391,443,707.00 to other Ministries, Departments and Agencies. Out of the Kshs. 2,391,443,707.00, an advance totaling Kshs. 1,804,229,228.00 relates to old balances carried forward for several years and is being addressed through the National Treasury Taskforce on clearing old balances. The task force recommended for adjustments to be made and was done in 2015/16 financial year. Revised financial statements after analyzing the old balances have been forwarded to Kenya National Audit Office for audit review and concurrence.

iii). Out of the Kshs.2, 391,443,707.00, an amount of Kshs.487, 214,479.00 relates to advances released to project accounts. Any unspent balance in the project accounts is spent in the subsequent years after budgeting for the same. The Kshs.100, 000,000.00 was an Authority to Incur Expenditure issued to Ministry of Health which has since been refunded.

He finally noted that issue was still outstanding awaiting conclusion by the Task Force on Old Balances. The Taskforce required 6 to 9 months to conclude on the Report.

Committee Observations and Findings

i. **The Cabinet Secretary for the National Treasury has put in place the Taskforce on clearing old balances. The Accounting Officer submitted revised financial statements after analyzing the old balances and forwarded the same to the Office of Auditor General for review and verification.**
ii. **The National Treasury Taskforce was scheduled to take nine months to finalize and clear the issue of old balances**

Committee Recommendations

The National Treasury Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

4. Pending Bills

Bills amounting to Kshs.632, 331,850.00 relating to 2014/2015 were not settled during the year but were instead carried forward to 2015/2016 financial year. Failure to settle the bills in the year to which they relate adversely affects the following year's provision to which they have to be charged.

Submission by the Accounting Officer

The Accounting Officer stated that the bills amounting Kshs.632, 331,850.00 relating to 2014/2015 were not paid out during the year. This was due to late submission of invoices from the suppliers. The same were carried forward to financial year 2015/2016 and treated as a first charge and were all cleared. As the trend continues such Bills continue to distort the current year budget against which budget they are cleared.

Committee Observations and Findings

i. **The accumulation of pending bills totaling Kshs. 632,331,850.00 by the National Treasury in one financial year clearly demonstrates fiscal policy failure and the inability of the Officers to ensure proper management and control of, and accounting for the finances of the national government and its entities in order to promote the efficient and effective use of budgetary resources at the national level as stipulated in Section 12(2b) of the PFM Act 2012.**

ii. **The Committee agreed with the Accounting Officer that the trend of accumulation of pending bills by the National Treasury and other government entities distort the implementation of successive year's budget. However, the Committee noted that the Accounting Officer for the National Treasury was the one responsible for releasing exchequer to other MDAs but failed to manage pending bills in its own entity.**

iii. **The reason advanced by the Accounting Officer that the pending bills were mainly due to late submission of invoices from the suppliers was not satisfactory to the Committee. Other Accounting Officers who appeared before the Committee attributed pending bills in their entities to lack of or late release of exchequer from the National Treasury which is a symptom of cash flow management problem in government**.

Committee Recommendations

i. **The Cabinet Secretary for the National Treasury must at all times take charge of management of fiscal affairs including cash flow management in the national government by ensuring that the National Treasury lead by example in accounting and reporting on all financial matters.**

ii. **The Accounting Officer, Dr. Kamau Thugge, should be reprimanded for accumulating pending bills totaling Ksh. 632,331,850.00 at the National Treasury FY 2014/2015 contrary to the provisions of Section 12(2) (b) of PFM Act, 2012 which mandates the National Treasury to ensure proper management and control of, and accounting for the finances of the national government and its entities in order to promote the efficient and effective use of budgetary resources at the national level.**

iii. **The Principal Secretary for the National Treasury should within three (3) months after tabling of this report ensure that the Public Sector Accounting Standard Board (PSASB) in line with its functions as stipulated in Section 194 of the PFM Act 2012 embarks on developing a framework & standards for the adoption of the IPSAS accrual basis of accounting and reporting by the national government entities as opposed to the IPSAS cash basis of accounting and reporting which has been in force since 1st July 2014 and has not addressed pertinent matters such accounting and reporting for pending bills.**

5. Outstanding Imprests

The statement of financial position reflects outstanding imprests balance of Kshs. 3,250,777.00 which ought to have been recovered or accounted for on or before 30th June 2015. No reasons have, however, been provided for failure to surrender or account for the imprests.

Submission by the Accounting Officer

The Accounting Officer stated that the statement of financial position reflects outstanding imprests of Kshs.3, 250,777.00.All this outstanding imprest has since been recovered.

Committee Observations and Findings

i. **The Accounting Officer failed to ensure that imprests of Kshs. 3,250,777.00 that were due were recovered within the stipulated time as per the provisions of PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.**
ii. **The committee marked the matter as resolved.**

Committee Recommendation

The Accounting Officer, Dr. Kamau Thugge, should be reprimanded for failure to manage imprests and ensuring that the outstanding imprests due are surrendered in time in line with the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.

6. Bank Reconciliation Statement

i. Recurrent Account: - The bank reconciliation statement for National Treasury Recurrent Account No.1000181467 as at 30th June 2015 reflects a cash book balance of Kshs. 13,836,202.25, which differs from the cashbook Board of Survey balance of Kshs. 9,937,240.55 by Kshs. 3,898,961.70

Submission by the Accounting Officer

The Accounting Officer in stated that the difference was due to some adjustments made to the cash book after board of survey was conducted to correct some mis-postings and omitted entries.

iii. Development Account

The bank reconciliation statement for Development account 1000181664 as at 30th June 2015 reflects cash book balance of Kshs.21, 665,581.55 which differs from the cash book board of survey balance of Kshs.22, 536,245.80.

Submission by the Accounting Officer

The Accounting Officer stated that the difference was due to some adjustments made to the cash book after board of survey was conducted to correct some mis-postings and omitted entries.

Committee Observations and Findings

i. **The bank reconciliation statement for Development account 1000181664 as at 30th June 2015 reflected cash book balance of Kshs.21, 665,581.55 which differed from the cash book board of survey balance of Kshs.22, 536,245.80.**

ii. **The committee marked the matter as resolved.**

Committee Recommendation

The accounting officers must at all times ensure that fully reconciled financial statements are submitted to the auditor general pursuant to section 68 (2) (k) of the PFM Act, 2012 and within three months as provided for under Article 229 (4) of the Constitution of Kenya, 2010.

7. Balance Carried Forward

The statement of revenues and transfers reflects a balance carried forward of Kshs. 2,995,232,114.70 which includes an amount of Kshs. 2,668,125,971.50 brought forward from 2013/2014 and previous years. Although the National Treasury has constituted a task force on clearance of old balances, a report dated 29th September 2015 issued by the task force does not show the progress made to analyze and clear the long outstanding balance carried forward from the books of account. In addition, no reason has been provided for failure to remit to the Exchequer Account a significant revenue balance of Kshs. 2,995,232,114.70 as at 30thJune 2015.

Submission by the Accounting Officer

The Accounting Officer stated that the task force constituted by the National Treasury had not concluded its work by the time of audit. However, the taskforce concluded its work on revenue and recommended for adjustments of old balances. The adjustment was done when preparing revenue statement for 2016/17 Financial Year. The amount of Kshs.327, 106,143.20 was released to the Ministry of Energy and Petroleum during the 2015/2016 Financial Year.

Committee Observations and Findings

1. **The Accounting Officer tabled documents to support his submission that the amount of Kshs.327, 106,143.20 was released to the Ministry of Energy and Petroleum during the FY 2014/2015.**
2. **The Principal Secretary of the National Treasury had put in place the National Treasury Taskforce on clearing old balances. The taskforce concluded its work on revenue and recommended for adjustments of old balances. The adjustment was done when preparing revenue statement for 2016/17 Financial Year.**
3. **The Committee marked the matter as resolved**.

Committee Recommendation

The Principal Secretary for the National Treasury should ensure that taskforce on old balances complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

8. Arrears of Revenue

The financial statement reflects Arrears of Revenue due and uncollected as at 30 June 2015 of Kshs.194, 951,716,541.16 compared to Kshs.164, 712,793,632.92 reported as at 30 June 2014. The amount of Kshs. 194,951,716,541.16 is made up of arrears for PAYE and Other Income Tax of Kshs. 136,404,717,386.00, arrears for VAT and Excise Taxes of Kshs. 21,603,491,849.00, arrears for Loan redemptions of Kshs. 12,414,837,326.57 and arrears for loan interests of Kshs. 24,528,669,979.59. Besides failure to collect the arrears, the National Treasury has not disclosed how it is addressing the persistent increase in arrears of revenue.

Submission by the Accounting Officer

The Accounting Officer stated that collection of revenue arrears is a continuous process and additional debts arise due to the following: -

Self-assessment/VAT penalties: -When returns of income tax are submitted, debt is created and debited in the period of year of income for Income Tax. Applicable interest and penalties are appropriately charged. Default penalties are charged on monthly basis where returns have not been submitted for VAT.

Additional assessments: -Additional assessments are issued when tax audits and investigations are concluded in various tax heads.

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

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

The following measures have been put in place to address the increase in Arrears of Revenue: -

Demand notice is issued on tax that is not in dispute: - This is the effective method commonly used;

Agency Notices: - This is an enforced method used to collect tax from third parties where taxpayers fail to pay when demand notice is issued;

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

Use of Caveats/Charges on the Debtors Property: - Commissioner of lands creates a caveat/charge debtor's property on request by the commissioner of taxes. The caveat is not lifted until the outstanding tax is paid in full.

Waiver of Interest and Penalties: - Upon request by the taxpayer, the Commissioner, Commissioner General or the Cabinet Secretary for The National Treasury may waive interest and penalties wholly, partly or reject depending on the mitigating factors advanced by the taxpayer;

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

Loan Redemption and Interest Arrears: In the case of loan redemption and Interest, the arrears of Kshs.12, 414,837,326.57 and Kshs.24, 528,669,979.50 for redemption and interest respectively are attributed to various institutions which have different reasons for non-repayment of loans. These include dormancy, poor financial performance, restructuring /reforms or the companies being under receivership or liquidation.

The National Treasury has taken the following initiatives to address the challenges:

Demand letters: - The National treasury continues to demand for the amounts due. The latest demand letters are dated April, 2018. While some institutions have made repayments, others have requested for and held consultative meetings with Treasury on the way forward. **Categorizing Institutions: -** The National Treasury has categorized the institutions which are dormant, collapsed or liquidated. A detail review of each to establish the recoverability of amounts owing has been initiated with a view to seeking authority for restructuring or writing off the loans.

Managing Policy Changes: - Where there have been changes in law or reforms in the sector such that the loan obligations are expected to move to other institutions, efforts are being made to transfer the loan to the respective receiving entity. This is being considered in the transfer of assets and liabilities arising from the changes.

Negotiations and Restructuring: - Consultative meetings between The National Treasury and the institutions with loans have been held with the view to compelling them to make good their obligations. Where there is sufficient proof that they are facing financial performance challenges, negotiation for loan restructuring is considered as an option;

Privatization: - Privatization process of some of the institutions especially in the sugar sector is ongoing. It is expected that the outstanding loan arrears will be addressed through the privatization process.

Selling and Recovery: - Some institutions that have been put under receivership are expected to turn around to profitability and be able to meet their obligations. Where the receiver-manager is not able to turn around the institution, it is expected that on the sale of the entity, the Government loans would be considered in the distribution of the proceeds.

Committee Observations and Findings

1. **The arrears of revenue due and uncollected as at 30th June 2015 stood at a staggering Kshs. 194,951,716,541.16 (Ksh. 195 billion) comprising of arrears for PAYE and Other Income Tax of Kshs. 136,404,717,386.00 (Ksh. 136.4 billion), arrears for VAT and Excise Taxes of Kshs. 21,603,491,849.00 (Ksh. 21.6 billion), arrears for loan redemptions of Kshs. 12,414,837,326.57 (Ksh. 12.4 billion) and arrears for loan interests of Kshs. 24,528,669,979.59 (Ksh. 24.5 billion).**
2. **The persistent increase in arrears of national revenue denies the national and county government the scarce financial resources that it needs to undertake their development programmes and projects. Further, the huge arrears of revenue due**

and uncollected undermines the principle of equitable sharing of national revenue between the national and county government as enshrined in Articles 202 and 203 of the Constitution of Kenya, 2010.

3. **The Cabinet Secretary and receivers of revenues for the national government have been granting waivers of interest and penalties and write off/abandonment of tax including tax exemption. However, full details of these waivers and exemptions have not been disclosed to the Auditor General in contravention of the provisions of Article 210 of the CoK, 2010 and Sections 76 and 82 of the PFM Act 2012. Further, these waivers and tax exemptions (tax expenditures) lead to losses of national revenue of approximately 2.5 percent of the GDP (approximately Ksh. 200 billion annually) as per studies by KRA and World Bank.**
4. **Had the arrears been effectively collected, the ratio of revenue share between National Government and Counties would have varied in percentages.**

Committee Recommendations

1. **The Accounting Officer, National Treasury should be held responsible for PAYE and other Income Tax matters and VAT and Excise Tax matters jointly and individually be held responsible for failure in their responsibilities for collecting and accounting for tax revenue arrears for PAYE and Other Income Tax of Kshs. 136,404,717,386.00 (Ksh. 136.4 billion), and arrears for VAT and Excise Taxes of Kshs. 21,603,491,849.00 (Ksh. 21.6 billion) in the FY 2014/2015 in contrary to the provisions of KRA Act No. 2 of 1995, Section 78 of the PFM Act 2012 and Section 4 of Tax Procedures Act No. 29 of 2015 and should ensure that taxes and revenue arrears are collected and accounted for**
2. **The Cabinet Secretary for the National Treasury should fast-track the adoption of IPSAS accrual basis of reporting by all national government entities including Semi-Autonomous Government Agencies (SAGAs), State Corporations and Constitutional Commissions and Independent Offices. IPSAS accruals basis of accounting and reporting provide a complete and reliable financial position of the Government of Kenya and address challenges in accounting and reporting of revenue thereby promoting transparency and a better understanding of financial position of the whole government.**
3. **The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report, prepare and submit to the Auditor General for audit review and subsequent reporting to Parliament, a comprehensive financial statement of tax waivers, exemptions, interest and penalties write off/abandonment for the period FY 2014/2015 to date in line with Article 210 of the CoK, 2010 and Sections77, 80 and 82 of the PFM Act 2012.**
4. **The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report prepare and submit to Parliament a comprehensive report on various statutory tax exemptions and incentives (tax holidays) offered by the**

Government of Kenya with a view to determine their efficacy in promoting investments and exports.

NATIONAL EXCHEQUER ACCOUNT

Basis for Disclaimer of Opinion

9. Transfer of Proceeds from the Sovereign Bond to the National Exchequer Account

In the Report for 2013/2014, it was indicated that proceeds from the Sovereign Bond of USD 1,999,052,872.97 out of the total amount of USD 2,000,000,000.00 were received on 24 June 2014 and deposited into an offshore account, contrary to Article 206 of the Constitution of Kenya and Section 17(2) of Public Finance Management Act, 2012 which requires that all money raised or received by or on behalf of the National Government be paid into the Consolidated Fund.

It was further reported that, out of the balance in the offshore account of USD 1,999,052,872.97 as at 2 July 2014, an amount of USD 395,439,262.50 (Kshs.34, 648,388,180.25) was on 3 July 2014 transferred to the Exchequer Account to fund infrastructure projects but accounted for in 2013/2014 financial year. On the same date of 3 July 2014 another amount of USD 604,560,737.50 (Kshs.53, 201,344,900.00) was withdrawn from the offshore account to fund the repayment of a syndicate loan.

The annex to the National Exchequer Account statement of receipts and issues for the financial year ended 30 June 2015 show that the remaining balance in the offshore account of USD 999,018,457.60 (Kshs. 88,463,084,420.45) was on 8 September 2014 transferred to a Sovereign Bond Deposits Account at the Central Bank of Kenya. The annex further indicates that an additional amount from external borrowing of USD 815,436,932.00 (Kshs.73, 805,196,715.30), being net proceeds from the tap sale, was also transferred on 17 December 2014 to the Sovereign Bond Deposits Account at the Central Bank of Kenya.

Further, the financial statements reflect under Note 5.5 net proceeds from commercial financing (Sovereign/Eurobond) totaling Kshs.215, 469,626,035.75 in the year 2014/2015. However, investigations into the receipts, accounting and use of funds related to the Sovereign/Eurobond are still ongoing and the accuracy of the net proceeds of Kshs.215, 469,626,035.75 is yet to be ascertained.

Submission by the Accounting Officer

The Accounting Officer stated that the National Treasury wishes to respond to the two issues raised as follows:

1. **Compliance with the Constitution and Public Finance Management Act, 2012**

As indicated in the report and in the National Exchequer Account financial statements, a total of Kshs 250,118,014,216.00 was raised from the Sovereign Bond out of which an amount of Kshs.34, 648,388,180 was credited to Exchequer and accounted for in FY 2013/2014. The balance of Kshs 215,469,626,036.00 was accounted for in FY 2014/2015, with Kshs 53,201,344,900 applied in repaying the Syndicated loan and the balance of Kshs

162,268,281,136.00 transferred to the special Sovereign Bond account at CBK, and eventually to the Exchequer account at various dates, based on National Treasury cash flow requirements.

The offshore accounts were opened specifically to receive the proceeds in line with international practice on similar transactions. These accounts, as well as the special Sovereign Bond account at CBK, are considered as part of the Consolidated Fund. The payment of Syndicated loan Kshs. 53,201,344,900 was in line with Article 214 of the Constitution, as a charge on the Consolidated Fund. This was done after approval of the Controller of Budget in line with Article 206(4) of the Constitution and Section 17(4) of the Public Finance Management Act, 2012. The CBK effected the payment, pursuant to the Section 45(d) of the Central Bank of Kenya Act.

This is further supported by the attached legal opinion from the Office of the Attorney General (Ref: AG/CONF 21/8/1 VOL 1 dated 11 December, 2015) on the matter. The audit report was issued before the special audit had been concluded

As stated in your report, the special audit for the Sovereign Bond that was requested by the National Assembly is still on-going. We note that the audit commenced in January, 2016. It was expected that the audit of National Exchequer Account will be finalized once the special audit is concluded to avoid contradicting the opinions should the outcome of special audit provide basis of forming an alternative opinion. The audit report is not consistent with the report issued on FY 2013/2014.

The adverse audit report issued for FY 2014/2015 financial statements contrasts fundamentally from the opinion issued for FY 2013/2014, which reads: "In my Opinion, the statement present fairly, in all material aspects, the receipts into and issues from the National Exchequer Account for the year ended 30 June, 2014 in accordance with Government Financial Regulations and Procedures and the Public Finance Management Act, 2012 of the laws of Kenya"

"I have however, not qualified my audit opinion on the basis of this matter due to the fact that the balance of actual net proceeds from Sovereign Bond is correctly reflected in the Off-Shore Account and the Central Bank of Kenya Special Account".

Given the fact that the information and documentation provided in FY2014/2015 was substantially the same as that provided in FY 2013/2014, the drastic change in the audit opinion is not understandable and the audit report does not explain the reasons leading to the change.

This concern has been explained clearly in our letter Ref: No. AG 17/06/VOL. III/44 dated 22nd July 2016 addressed to the Auditor General.

2. **The Director of Public Prosecution (DPP) Press Statement**

It should also be noted that both Ethics and Anti-Corruption Commission (EACC) and Director of Public Prosecution investigated the matter extensively. The DPP in a press statement dated 31st May 2016 stated that:

"Upon independent review of the evidence gathered in the inquiry file and the re submitted file. I have found no evidence to support the allegation about the alleged misappropriation of Kshs 250 billion or any part thereof."

"Further, I have found no evidence disclosing any criminality on the part of any government official(s)."

"In the premises and, as matters stand now, there is no evidence upon which a prosecution may ensue." The matter remains outstanding until Special Audit is concluded**.**

Committee Observations and Findings

i. **The investigations into the receipts, accounting and use of funds related to the Sovereign/Eurobond are still ongoing and the accuracy of the net proceeds of Kshs. 215,469,626,035.75 reported in the FY 2013/2014 is yet to be ascertained.**

ii. **The special audit of utilization of the proceeds of the Sovereign/Eurobond of Kshs 250,118,014,216.00 realized in the FY 2013/2014 has not been concluded and has taken inordinately long time.**

Committee Recommendations

The Auditor General concludes the investigations into the receipts, accounting and use of funds related to the Sovereign/Eurobond of Kshs 250,118,014,216.00 realized in the FY 2013/2014 and submit progress or final report to Parliament within (3) three months of adoption of this report.

GOVERNMENT CLEARING AGENCY FUND

Basis for Disclaimer of Opinion

10. Unsupported Debtors and Creditors Balances

The statement of financial position as at 30 June 2015 reflects balances of Kshs.300, 931,776.15 and Kshs.52, 973,896.80 under Accounts Receivables - Debtors and Accounts Payables - Creditors respectively. However, these balances have not been supported with verifiable records and documents including debtors and creditors registers specifically. The creditors' balance has not been supported with contracts, Local Purchase/Service orders, invoices and delivery notes with the result that accuracy, completeness and validity of the balance could not be ascertained. Further, the debtors' balance of Kshs.300, 931,776.15 is net of a Clearance Account balance of Kshs.654, 000,000.00 which, has also not been supported with any verifiable documents making it difficult to ascertain what it represents.

Submission by the Accounting Officer

The Accounting Officer in stated that the Accounts Receivables - Debtors of Kshs. 300,931,776.15, Accounts Payables – Creditors of Kshs. 52,973,896.80 and the Clearance balance of Kshs. 654,000,000.00 are both balances carried forward for many years and Treasury formed a taskforce to address issues of old balances appearing in Ministries', Departments and Agencies books of Accounts with a view of clearing the same. The process had not been fully completed due to lack records.

Committee Observation and Finding

The Accounts Receivables - Debtors of Kshs. 300,931,776.15, Accounts Payables-Creditors of Kshs. 52,973,896.80 and the Clearance balance of Kshs. 654,000,000.00 are both balances carried forward for many years and Treasury formed a taskforce to address issues of old balances.

Committee Recommendation

The National Treasury Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

11. Unsupported Fund and Paymaster General Balances

The statement of financial position also reflects a brought forward Fund balance of Kshs.2, 147,492.05 and a Paymaster General (PMG) overdraft balance of Kshs.245, 810,387.30 which, as in the previous instance, have not been supported with verifiable documents including a bank balance confirmation certificate and a bank reconciliation statement, with the result that accuracy and validity of the balances could not be confirmed.

Submission by the Accounting Officer

The Accounting Officer in his submission stated that these are both aggregates of old balances that have been carried forward for very many years. This is a historical problem that affects the whole Government and the National Treasury has formed a task force to address the old balances appearing in Ministries, Departments and Agencies books of accounts.

Committee Observation and Finding

The statement of financial position still reflects a brought forward Fund balance of Kshs.2, 147,492.05 and a Paymaster General (PMG) overdraft balance of Kshs.245, 810,387.30. The matter relates to the issue of old outstanding balances being handled by the Taskforce on Old Outstanding Balances.

Committee Recommendation

The National Treasury Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

PETROLEUM DEVELOPMENT LEVY FUND

Basis for Adverse Opinion

12. Presentation and Disclosure of Financial Statements

The Petroleum Development Levy Fund financial statements prepared and submitted for audit do not fully conform to the International Public Sector Accounting Standards (Cash Basis) as prescribed by the Public Sector Accounting Standards Board. The financial statements do not include a statement of cash flows and a statement of comparative budget and actual amounts.

Submission by the Accounting Officer

The Accounting Officer stated that the statement of cash flow and the statement of comparative budget and actual amounts were erroneously omitted and the Fund Account was later amended to incorporate both the cash flow statement and the statement of comparative budget and actual amounts and the same was submitted to the Auditor General for audit review.

Committee Observations and Findings

i. **The Accounting Officer submitted to the Auditor General Incomplete Petroleum Development Levy Fund financial statements that did not fully conform to the International Public Sector Accounting Standards (Cash Basis) as prescribed by the Public Sector Accounting Standards Board. The financial statements do not include a statement of cash flows and a statement of comparative budget and actual amounts. The Fund Account was later amended to incorporate both the cash flow statement and the statement of comparative budget and actual amounts and the same was submitted to the Auditor General for audit review.**
ii. **The Committee marked the matter as resolved.**

Committee Recommendation

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

13**. Uncleared Balance**

The statement of financial position as at 30 June 2015 reflects a balance of Kshs.3, 772,445,840.60 under Cash with P.M.G brought forward from 2013/2014 and previous years. Although the National Treasury has constituted a task force on clearance of old balances, a report dated 29 September 2015 issued by the task force does not show the progress made to analyze and clear this long outstanding balance from the books of account**.**

Submission from Accounting Officer

The Accounting Officer stated that submissions for 13 and 14 are answered in paragraph 14

Committee Observations and Findings

i. **The statement of financial position as at 30 June 2015 reflects a balance of Kshs.3, 772,445,840.60 under Cash with P.M.G brought forward from 2013/2014 and** previous years. The matter relates to the issue of old outstanding balances being handled by the Taskforce on Old Outstanding Balances.**

ii. **The Committee marked the matter as resolved.**

Committee Recommendation

The Principal Secretary National Treasury should ensure that the Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

14. Bank Balance

The statement of financial position as at 30 June 2015 also reflects a bank balance of Kshs. 1,365,012,262.60 while the Fund's cash book as at the same date indicates an amount of Kshs. 1,061,873,075.15 resulting in an unexplained and unreconciled difference of Kshs. 303,139,187.45. Consequently, the validity and accuracy of the cash book balance of Kshs.1, 061,873,075.15 as at 30 June 2015 could not be ascertained.

Submission by the Accounting Officer

The Accounting Officer stated that the figure reflected as Paymaster General Account of Kshs. 3,772,445,840.60 and the difference in bank balance of Kshs. 303,139,187.45 are both aggregates of old balances that have been carried forward for very many years. The Ministry appeared before the taskforce on old balances and was given the go ahead to clear the same from the books of accounts. The same old balances were cleared when preparing the financial statements for FY 2016/17.

Committee Observations and Findings

i. **The statement of financial position as at 30th June 2015 reflected a bank balance of Kshs. 1,365,012,262.60 while the Fund's cash book as at the same date indicates an amount of Kshs. 1,061,873,075.15 resulting in an unexplained and unreconciled difference of Kshs. 303,139,187.45. The matter relates to the issue of old outstanding balances being handled by the Taskforce on Old Outstanding Balances. The Fund Account was later amended to incorporate both the cash flow statement and the statement of comparative budget and actual amounts and the same was submitted to the Auditor General for audit review.**

ii. **The committee marked the matter as resolved.**

Committee Recommendation

The Principal Secretary National Treasury should ensure that Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

RURAL ENTERPRISE FUND

Basis for Disclaimer of Opinion

15. Uncleared Balances

Following the winding up of the Rural Enterprise Fund through Legal Notice No. 97 dated 29 June 2012, any amounts remaining in the Rural Enterprise Fund were 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. The Fund's statements of financial position as at 30 June 2015 presented for audit continue to reflect a total amount of Kshs. 397,908,774.30 under financial assets made up of balances of Kshs. 394,559,879.30, Kshs. 1,951,920.60, Kshs. 108,839.70, and Kshs. 1,288,134.70against Account Receivables Loanees, Cash with D.C. (Loans Repaid), Cash with D.C. (Interest on Loans) and Cash in the D. C'S Miscellaneous Deposit Account, respectively. A report dated June 2015 issued by the task force on winding up of dormant funds does not show the progress made to clear these balances and transfer the fund balance to the Consolidated Fund.

Submission by the Accounting Officer

The Accounting Officer stated that the fund was wound up vide legal notice no.119 of 14th November, 2012. The National Treasury is in the process of closing the books of accounts through requesting for a write-off.

Committee Observation and Finding

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

Committee Recommendation

The Cabinet Secretary for the National Treasury should 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.

16. Unresolved Matters in the Report for 2013/2014

A review of the unsatisfactory matters highlighted in the report for 2013/2014 revealed that they remained unresolved during the year 2014/2015 as follows:

16.1 Loan Beneficiaries

The statement of assets and liabilities as at 30 June 2013 and 2014 reflected a loan balance of Kshs. 394,559,879.30, which included an amount of Kshs. 220,013,036.70 that had not been analyzed to show the names of borrowers, amounts borrowed and amounts outstanding. Consequently, and in absence of the analysis, the completeness and correctness of the balance of Kshs.394, 559,879.30 as at 30 June 2013 and 2014 could not be ascertained. Further, no interest on the loans outstanding as at 30 June 2013 and 2014 were accrued in the accounts.

16.2 Unbanked Cash

The statement also reflected unbanked cash balances totaling Kshs.3, 348,895.00, brought forward from 2012/2013 and earlier years. According to information available the total amount comprised Kshs.1, 951,920.60 representing cash with DC (Loans Repaid); Kshs.108, 839.70 Cash with DC (Interest on Loans); and Kshs.1, 288,134.70 relating to Cash in the DC'S Miscellaneous Deposit Account. Further, there was no evidence to confirm actual existence of the amount of Kshs.3, 348,895.00 at the DC's Office.

In addition, the figure of Kshs.1, 951,920.60 under DC (Loans Repaid) included advances amounting to Kshs.207, 344.25 in form of IOUs issued in 1997/1998 from the Fund to five officers working at the DC's Office, Kisumu. The IOUs had not, however, been surrendered as at 30 June 2015.

16.3 Unreconciled Balance

The statement of assets and liabilities for deposits 07 as at 30 June 2013 reflected a debit balance of Kshs.1, 828,387.65 in respect of the Fund, while the Fund Accounts for the same year showed a figure of Kshs.397, 908,774.30 against the item. The significant difference of Kshs.396, 080,386.65 between the two sets of records has not been reconciled or explained.

Submission by the Accounting Officer

The Accounting Officer stated that this fund was established in 1992 through legal Notice No.109 to provide loan facilities to individuals or groups of individuals in rural areas to assist them in expansion and growth of informal and small scale enterprises through provision of resources for initial investment and working capital.

Increase the productive capacity of the borrowers by creating income and employment generating opportunities. This has been a dormant Fund and was wound up vide legal Notice No. 119 of 14th September, 2012. National Treasury is in the process of closing the books of accounts through requesting for a write-off.

The matter remains outstanding until the conclusion of the winding-up process.

Committee Observation and Finding

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

Committee Recommendation

The Principal Secretary, National Treasury should ensure that the Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than April, 2019.

THE TREASURY MAIN CLEARANCE FUND

Basis for Adverse Opinion

17. Presentation and Disclosure of Financial Statements

The Treasury Main Clearance Fund's financial statements prepared and submitted for audit do not fully conform to the International Public Sector Accounting Standards (Cash Basis) as prescribed by the Public Sector Accounting Standards Board. The financial statements submitted do not include a statement of cash flows.

Submission by the Accounting Officer

The Accounting Officer stated that the Treasury Main Clearance Fund Financial Statements for the year ended 30th June 2015 initially prepared and submitted for audit did not include a cash flow Statement. This was an omission that has now been rectified. The Fund Account has been amended to incorporate the cash flow statement and the same have been submitted to the Auditor General for audit review.

Committee Observations and Findings

i. **The Accounting Officer submitted to the Auditor General Incomplete Treasury Main Clearance Fund's financial statements that did not fully conform to the International Public Sector Accounting Standards (Cash Basis) as prescribed by the Public Sector Accounting Standards Board.**
ii. **The financial statements amended to incorporate a statement of cash flow.**
iii. **The committee marked the matter as resolved.**

Committee Recommendation

The Accounting Officer should ensure that the National Treasury keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the 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.

18. Accounts Receivables- Debtors

The Treasury Main Clearance Fund statement of financial position as at 30 June 2015 reflects an accounts receivables' balance of Kshs. 12,503,607,445.65, which includes account balances totaling Kshs. 2,332,188,394.25 that have not been analyzed as summarized:

Description of Account	Balance (Kshs)
003-National Treasury	7,931,690.15
013-Police Headquarters	170,879.35

019-Immigration Department	433,000.25
021-Pensions Department	(21,572,019.85)
032-Remittance to Crown	2,341,896,517.60
049-Ministry of Planning	1,712,108.85
054-Remittance to Karachi Agent	132,319.40
055-Remittance to Bombay Agent	54,920.15
058-Fluorspar Company Ltd	1,028,978.35
Total	**2,332,188,394.25**

Consequently, the completeness and accuracy of the balance could not be ascertained. Further, no reason has been provided for the inordinate delay in recovery of debts amounting to Kshs.12, 503,607,445.65 which have been due for many years.

19. Accounts Payables- Creditors

The statement of financial position also reflects an accounts payables' balance of Kshs.12, 490,478,940.70. The balance includes amounts of Kshs. 523,686.45 under PMG Special Account, Kshs. 2,285,511,054.15 under Advance Deposits, Kshs. 29,963,830.85 under Advance Deposits – Ministry of Information and Communications and Kshs. 93,454.55 under JCF Interest all brought forward from 2013/2014 financial year. However, as reported in the previous years, these amounts have not been analyzed or supported with relevant documents. Consequently, the completeness and accuracy of the Creditors balance of Kshs.12, 490,478,940.70 could not be ascertained.

20. Balance Brought Forward

The statement of financial position further reflects a brought forward balance of Kshs. (871,495.05) which as reported in the previous year's differs from the calculated figure of Kshs. 2,949,863.30, being the difference between the amount received of Kshs. 10,174,386,914.70 and the payments made of Kshs. 10,171,437,051.40 as captured in the underlying records. The difference has not been reconciled or explained casting doubt on the accuracy of the Treasury Main Clearance Fund statement of financial position.

21. Winding Up of the Fund

Although the Fund is in the process of being wound up in line with the Public Accounts Committee recommendations and Treasury instructions on the requirement to wind up dormant Funds, no evidence has been made available to show the status of the winding up process. Paragraphs 18, 19, 20, & 21: Accounts Receivable - Debtors, Accounts Payables-Creditors, balance brought forward and Winding up of the Fund

Submission by the Accounting Officer

The Accounting Officer stated that this is a dormant fund and it is in the process of being wound up through the Taskforce on the winding up of Dormant Funds. The matter remains outstanding until the conclusion of the winding-up process.

Committee Observation and Finding

The Treasury Main Clearance Fund is in the process of being wound up in line with the Public Accounts Committee recommendations and Treasury instructions on the requirement to wind up dormant Funds.

Committee Recommendation

The Cabinet Secretary, National Treasury should complete the winding up of the Fund report in line with section 24 (8) of the PFM Act, 2012 and Regulation 209 of the PFM (National Government) Regulations 2015.

STATEMENT OF INVESTMENTS BY THE CABINET SECRETARY/NATIONAL TREASURY

Basis for Adverse Opinion

22. Presentation and Disclosure of Financial Statements

The Statement of Investments by the Cabinet Secretary/Treasury in Various Companies as at 30 June 2015 prepared and submitted for audit do not fully conform with the International Public Sector Accounting Standards (Cash Basis) as prescribed by the Public Sector Accounting Standards Board. Statement of financial assets as at 30 June 2015 and statement of receipts and payments for the year then ended in respect of the investments have not been prepared and submitted for audit. In addition, significant accounting policies adopted in the preparation of the financial statements and other explanatory information had not been provided.

Submission by the Accounting Officer

The Accounting Officer in stated that the Statement of Investments by Cabinet Secretary/National Treasury in various companies for the year ended 30th June 2015 was prepared and submitted for Audit using the previous format since PSASB had not prescribed a format for reporting. In addition, the Statement of Investments by Cabinet Secretary in various companies is a memorandum statement which forms part of the notes to the consolidated financial position statement of the National Treasury.

With the new reporting template, dividends received from Government investment were included in the National Treasury's revenue statement for 2015 hence not prepared as a stand-alone statement. The matter was kept in abeyance to be revisited during the 2018 audit.

Committee Observation and Finding

The National Treasury is yet to submit revised financial statements because dividends received from Government investment were included in the National Treasury's revenue statement for 2015 hence it did not prepare a stand-alone statement for review and verification by the Auditor General.

Committee Recommendation

The Accounting Officer should prepare a stand-alone statement for review and verification by the Auditor General.

23. Dormant Companies

The Statement of Investments by the Cabinet Secretary/Treasury in Various Companies as at 30th June 2015 reflects total Government shareholding of 19,521,419,886 shares with a nominal value of Kshs. 21,511,131,522 compared to 19,496,556,717 shares with a nominal value of Kshs. 21,377,783,487 reported as at 30 June 2014. However, the balance as at 30 June 2015 includes nine (9) companies in which the Government holds 29,365,817 shares with a nominal value of Kshs. 587,315,695.00 as summarized: -

Name of Company	No. of Shares	Nominal
Pan African Paper Mills	20,094,600	401,892,000.00
Kenya Poultry Ltd	4	20.00
Ken-Ren Chemical & Fertilizer Ltd	3,640,000	72,800,000.00
Nyari Estate Ltd	2,500	50,000.00
Kenya Farmers Association	1	20.00
Nat. Agri. Chemical Fertilizer Ltd	2,084,998	41,699,960.00
Miwani Sugar Company	2,058,000	41,160,000.00
Mercat (K) Ltd	39	195.00
Busia Sugar Company	1,485,675	29,713,500.00
Total	**29,365,817**	**87,315,695.00**

These companies are either dormant or under receivership and as a result, the value of the investments in these companies is doubtful and may not, therefore, be recovered. The statement, however, excludes Kenya Fibre Corporation Ltd (under receivership), in which the Government holds 750,000 shares with a nominal value of Kshs.15, 000,000.00. No satisfactory explanation has been given for the omission except that the company collapsed in 1982 and is earmarked for a write-off.

Submission by the Accounting Officer

The Accounting Officer stated that the nine companies in which the Government holds 29,365,817 shares with a nominal value of Kshs. 587,315,817.00 are either dormant or under receivership and as a result the value of the investments is doubtful and may not be recoverable.

Kenya Fiber Corporation Limited which the Government holds 750,000 with a nominal value of Kshs. 15,000,000.00 was incorporated on 12th January 1977. It was put under receivership in 1982 by Industrial Development Bank (IDB) and other creditors, some of whom had court decree. In view of the fact that the Company was under receivership and finally liquidated, the National Treasury excluded it from the Statement of Investment.

The matter remains unresolved awaiting the conclusion of the Task Force on Dormant Funds.

Committee Observation and Finding

The nine companies in which the Government holds 29,365,817 shares with a nominal value of Kshs. 587,315,817.00 are either dormant or under receivership and as a result the value of the investments is doubtful and may not be recoverable. The National Treasury is in process of winding up the dormant companies and has initiated a request for a write-off the same as investments.

Committee Recommendation

The Cabinet Secretary for the National Treasury should complete its work within six months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

24. Investment in Kenya Commercial Bank

The Statement of Investments by the Cabinet Secretary/Treasury in Various Companies as at 30 June 2015 reflects Government shareholding of 523,600,000 shares (17.74% shareholding) with a nominal value of Kshs.523, 600,000.00 in Kenya Commercial Bank (KCB). The shares register, however, indicates that the Government held 87,290,000 shares with a par value of Kshs.20 each in the company as at 28 June 2001 and that in the year 2007 there was a share consolidation of 10 shares for every one held upon which one share certificate of 523,600,000 shares with a par value of Kshs.1 each was issued. It is, however, not clear how the reduced Government shareholding of 523,600,000 shares in the company was arrived at or how the nominal value decreased from Kshs.1, 740,580,000.00 to Kshs.523, 600,000.00.

Submission by the Accounting Officer

The Accounting Officer stated that in 2007, there was a share consolidation of 10 shares for every share held upon which a share certificate of 523,600,000 shares with a par value of Ksh.1 each was issued. The Government shareholding in Kenya Commercial Bank has moved from paid up of 10,000,000 shares before 1988 when the bank was 100% Government owned. The initial Public offer was done in 1988 when public was an allocated 7,500,000 shares and Government 30,000,000 share being 80% ownership. Since then there has been various Public Offers, bonus issues and Rights issues bringing the Government shareholding to 17.31% with 523,600,000 shares by 30th June 2015. The issue has since been cleared by the auditor by letter Ref. No. AA11/2014/2015/17 dated 15th July, 2016.

Committee Observations and Findings

i. **The Management tabled documents to support its submission that correct the statement of investment in Kenya Commercial Bank under paragraph 24 had been recovered to the satisfaction of the Committee.**
ii. **The Committee marks the matter as resolved.**

STATEMENT OF OUTSTANDING LOANS

Basis for Qualified Opinion

25. Outstanding Loans Balance

The consolidated statement of outstanding loans as at 30 June 2015 reflects total loans issued of Kshs. 210,334,182,772.94, out of which an amount of Kshs. 13,481,299,737.41 has been repaid, leaving a balance of Kshs. 196,852,883,035.53 outstanding as at that date. The total outstanding loans' balance of Kshs. 196,852,883,035.53 represents an increase of Kshs. 15,565,564,215.65 or approximately 8.6% of total outstanding balance of Kshs. 181,287,318,819.88 reported as at 30 June 2014. However, the outstanding loan balance of Kshs.196, 852,883,035.53 could not be confirmed independently from the various institutions/parastatals who had been issued with the loans because no response was received on circularization of loans request sent to the National Treasury.

Submission by the Accounting Officer

The Accounting Officer stated that the request for confirmation of outstanding loan balances as at 30th June 2015 were sent to various institutions in the month of December 2015 to facilitate the audit process. The institutions were requested to confirm directly to; The Auditor General, Kenya National Audit Office with a copy to The National Treasury.

The auditor received direct confirmations from most of the entities for who the requests were made. For the few that had not confirmed, National Treasury did a follow up and received all the confirmations requested and forwarded the copies to Kenya National Audit Office for verification. The total amount of loans issued as at 30th June 2015 stood at Kshs. 210,334,182,772.94 out of which Kshs. 13,481,299,737.41 has been repaid leaving an outstanding balance of Kshs. 196,852,883,035.53.

Committee Observations and Findings

i. **The total amount of loans issued as at 30th June 2015 stood at Kshs. 210,334,182,772.94 out of which Kshs. 13,481,299,737.41 has been repaid leaving an outstanding balance of Kshs. 196,852,883,035.53.**
ii. **The Accounting Officer received all the confirmations requested and forwarded the copies to the Auditor General for verification.**
iii. **The Committee marked the matter as resolved.**

Committee Recommendation

The Accounting Officer must at all times ensure that confirmations of the outstanding loans are submitted to the Auditor General at the time of audit.

26. Failure to repay Loans

The total outstanding loans balance of Kshs. 196,852,883,035.53 reflected in the consolidated statement of outstanding loans as at 30 June 2015 includes loans amounting to Kshs. 21,352,043,593.36 issued to thirty-one institutions. However, these institutions have not made any efforts to repay their respective loans upon maturity as shown: -

Institution	Amount Lent (Kshs)	Effective Year Repayment
A. F. C	505,683,640.00	Various
Agricultural Settlement Fund &	70,717,700.00	Various
Associated Sugar Factory Ramisi	15,818,960.00	Various
Co-operative Bank	266,073,098.00	Various
Coffee Board	560,332,369.20	Various
Cotton Lint	19,632,020.00	Various
East African Sugar Industries Ltd	172,123,100.00	Various
Muhoroni Sugar Co. ltd	5,000,000.00	1992
Eldoret Municipal Council	1,058,673,824.12	1993
Halal Meat Products	27,701,420.00	1979
ICDC	89,230,500.00	Various
Kenya Industrial Estates	323,154,000.00	Various
Kenya Meat Commission	940,241,100.00	Various
Kenya National Federation of Co-	5,595,600.00	Terms not
KPLC Ltd	312,479,508.00	31/09/2006
Kenya Torray Mills	2,982,480.00	1970
KTDC	48,000,000.00	01/07/1991
Kenya Urban Transport	40,706,140.00	1994
Lake Victoria Water Serv.	4,116,555,792.00	Various
Local Government Loans Authority	7,594,273,720.00	Terms not
Miwani Out growers Ltd	22,600,020.00	Various
Miwani Sugar Mills	78,088,180.00	Various
Mumias Out growers	3,600,000.00	1973/74
National Water Conservation &	2,460,874,897.00	Various
Nzoia Sugar	158,510,100.00	Various
P.J. Products	2,036,820.00	Terms not
Pyrethrum Board	863,368,270.00	2008
Rift Valley Water	1,411,529,796.04	2010

South Nyanza Sugar	**47,200,000.00**	**Various**
Uplands Bacon	**26,205,900.00**	**Various**
Water Resources Management	**103,054,639.00**	**30/09/2008**
Total	**21,352,043,593.36**	

Submission by the Accounting Officer

The Accounting Officer stated that failure to repay loans are due to various reasons ranging from delay in project completion and disbursements causing extension of grace period, poor financial performance, reforms, companies under receivership or liquidation, ongoing privatization process and dormancy. The thirty-one (31) institutions are categorized and explanations for failure to repay the loans are provided. Issue remains un resolved.

Committee Observation and Finding

The total outstanding loans balance of Kshs. 196,852,883,035.53 reflected in the consolidated statement of outstanding loans as at 30 June 2015 includes loans amounting to Kshs. 21,352,043,593.36 issued to thirty-one institutions; and

Committee Recommendation

The Accounting Officer should ensure that they prepare and submit a report on the status of repayment of these loans within nine months of the adoption of this report.

MICRO FINANCE SECTOR SUPPORT CREDIT PROJECT (CREDIT NO.CKE 3004 01 E)

Basis for Qualified Opinion

27. Failure to Prepare the Special Account Activity

The National Treasury prepared and submitted for audit Part 'B' (The Special Account Reconciliation) only of the special account statement for the year ended 30 June 2015. The National Treasury has explained that it did not receive Part 'A' (The Special Account Activity for the FY 2014/2015) of the special account statement from the Central Bank of Kenya because the Project had closed and the bank did not therefore prepare one. The completeness and accuracy of the special account statement cannot, therefore, be ascertained in the absence of Part "A".

Submission by the Accounting Officer

The Accounting Officer stated that this was an oversight and the same was prepared and submitted for audit. The Auditor General vide letter Ref.CR.No.CKE.3004 01E/2014/2015/18 dated 2nd February, 2016 cleared the issue.

Committee Observation and Finding

The Accounting Officer tabled documents to support its submission that the matter relating to Failure to Prepare the Special Account Activity under paragraph 27 had been resolved to the satisfaction of the Committee.

STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY THE KENYA GOVERNMENT

Basis for Adverse Audit Opinion

28. Presentation of the Financial Statement

Contrary to the guidelines prescribed by the Public Sector Accounting Standards Board, the National Treasury did not prepare and submit for audit financial statements of outstanding obligations guaranteed by the government as at 30 June 2015 in accordance with International Public Sector Accounting Standards (Cash Basis). The single statement submitted does not include accounting policies used in its preparation and other explanatory notes.

Submission by the Accounting Officer

The Statement of Outstanding Obligations Guaranteed by the Kenya Government for the year ended 30th June 2015 was prepared and submitted for Audit using the previous format since PSASB had not prescribed a format for reporting obligations Guaranteed by the Government.The Statement of Outstanding Obligations Guaranteed by the Kenya Government for the year ended 30th June 2015 was prepared and submitted for Audit using the previous format since PSASB had not prescribed a format for reporting obligations Guaranteed by the Government.

Committee Observation and Finding

The Accounting Officer tabled documents to support its submission that the matter relating to presentation of the Financial Statement on the statement of outstanding obligations guaranteed by the Kenya Government under paragraph 6 had been resolved to the satisfaction of the Committee.

29. Long Outstanding Balances

The statement of Outstanding Obligations Guaranteed by the Kenya Government as at 30 June 2015 reflects outstanding contingent liabilities totaling Kshs. 164,132,745.60 made up of Kshs. 11,814,920.20 and Kshs. 152,317,825.00 relating to Kenya Railways Corporation and Cereals and Sugar Finance Corporation, respectively. Although these balances have been outstanding for a long period of time, the National Treasury has indicated that their clearance is dependent on redemption of bonds issued by Kenya Railways Corporation and completion of winding up process of the Cereals and Sugar Finance Corporation. The balances thus remained outstanding in the books of account as at 30 June 2015.

Submission by the Accounting Officer

The Accounting Officer stated that the statement of outstanding obligations guaranteed by the Kenya Government as at 30th June, 2015 reflects outstanding contingent liabilities totaling Kshs.164, 132,745.60 as detailed below:

1. **Kenya Railways Corporation – Ksh. 11,814,920.20**

The status of obligation guaranteed by the Kenya Government to bond holders was confirmed as at 30th June, 2005 and 30th June, 2006 vide letters from Kenya Railways Ref. Nos.CA/FM/503(S) dated 22nd September, 2006 and 3rd October, 2006. The Accounting Officer has written to the CEO requesting for confirmation of the bond holders and the maturity dates.In response the CEO wrote and indicated that there is a challenge of documentation and therefore cannot confirm.

In the absence of any indication that the obligation guaranteed has crystallized, it remains a contingent liability. The clearance of the amounts guaranteed to Bondholders is therefore dependent on redemption of the bonds.

2. **Cereals and Sugar Finance Corporation – Ksh.152, 317,825.00**

The obligation guaranteed by Government in respect of borrowing by Cereals and Sugar Finance Corporation (CSFC) amounting to Kshs. 152,317,825.00 has remained outstanding in our books pending conclusion of the winding up process. The task Force on winding up of dormant funds prepared Statements of affairs to determine the financial position of CSFC. The statements were submitted for audit examination. The issue will be kept in view awaiting the conclusion of the Task Force.

Committee Observations and Findings

i. **The status of obligation guaranteed by the Kenya Government to bond holders of Kenya Railways Corporation Ksh. 11,814,920.20 in the absence of any indication that the obligation guaranteed has crystallized, it remains a contingent liability.**
ii. **The Task Force on winding up of dormant funds prepared Statements of affairs to determine the financial position of CSFC. The statements were submitted for audit examination. The issue will be kept in view awaiting the conclusion of the Task Force.**

Committee Recommendation

The Principal Secretary for the National Treasury should ensure that the National Treasury Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

STATEMENT OF OUTSTANDING PUBLIC DEBT

Basis for Adverse Opinion

30. Accounting Policies

Contrary to the requirements of International Public Sector Accounting Standards financial reporting under the cash basis of accounting, the accounting policies adopted by the National Treasury in preparing and presenting these financial statements have not been disclosed.

Submission by the Accounting Officer

The Accounting Officer stated that initially the financial statements did not incorporate the accounting policies. However, they were amended to incorporate the same and have since been submitted for audit review.

Committee Observation and Finding

The Accounting Officer prepared and submitted to the Auditor General financial statement on outstanding public debt that did not meet the basic requirement under International Public Sector Accounting Standards (IPSAS) cash basis of accounting and reporting contrary to the provisions of Section 80(3) of the PFM Act 2012. Further the accounting policies adopted by the National Treasury in preparing and presenting these financial statements were not disclosed at the time of audit.

Committee Recommendation

The Accounting Officer, Dr. Kamau Thugge, for the National Treasury be reprimanded for preparing and submitting to the Auditor General financial statement on outstanding public debt that did not meet the basic requirement under International Public Sector Accounting Standards (IPSAS) under the cash basis of accounting contrary to the provisions of Section 80(3) of the PFM Act 2012.

31. Un-explained Differences

The statement of receipts and payments under Notes 20 and 21 and the ledger as at 30 June 2015 reflects different account balances in respect of the same items as indicated:

Item	Financial Statement Balance Kshs.	Ledger Balance Kshs.	Difference Kshs.
External Debt Interest	33,330,189,096.35	6,520,162,456.65	6,520,162,456.65
External Debt Redemption	80,213,525,854.00	75,540,232,323.60	4,673,293,530.40
Internal Debt Interest	139,363,010,320.00	136,789,092,079.70	2,573,918,240.00
Internal Debt Redemption	165,249,803,076.80	139,748,617,500.00	25,501,185,576.80

The management has not reconciled these differences.

Submission by the Accounting Officer

The Accounting Officer stated the amounts captured in the ledger had been understated due to some vouchers that had not been posted in the ledger. The vouchers have since been posted into the ledger and both the financial statement and ledger figures now balancing. The accounts have since been amended and submitted for audit review.

Committee Observations and Findings

i. **Members observed that the revised ledger sheets had been submitted for verification. However, the issue remains unresolved until the Auditor General has verified the revised ledgers.**
ii. **The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.**

Committee Recommendation

The Accounting Officer should ensure that reconciliation of statement of outstanding public debt is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

32. Comparative Balances

The financial statements reflect under Note 20 comparative balances in respect of interest on domestic borrowings totalingKshs. 116,492,759,327.00 which differs with the balance of Kshs. 117,037,704,912.00 shown against the same item in the audited financial statements for 2013/2014 resulting in a difference of Kshs. 544,945,585**.**

Submission from the Accounting Officer

The Accounting Officer stated the comparative balance in respect of Internal Debt Interest of Kshs. 117,037,704,912.35 was revised to Kshs. 116,492,759,326.85 comprising of Kshs. 91,170,200,986.00 and Kshs. 25,322,558,341.00 in respect of interest on Treasury Bonds and other loans respectively. After the amendments both the financial statement and ledger are now balancing. The revised financial statements were submitted for audit review.

Committee Observations and Findings

i. **The financial statements on outstanding public debt reflected under Note 20 comparative balances in respect of interest on domestic borrowings totaling Kshs. 116,492,759,327.00 which differed with the balance of Kshs. 117,037,704,912.00 shown against the same item in the audited financial statements for FY 2013/2014 resulting in a difference of Kshs. 544,945,585.**

ii. **The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.**

Committee Recommendation

The Accounting Officer should ensure that reconciliation of outstanding public debts is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

33. Un-explained Source of Funding

The statement of receipts and payments further shows that an amount of Kshs.416, 234,431,172 was transferred from the National Treasury/exchequer to Vote R050-CFS Public Debt in the financial year 2014/2015. However, expenditure totaling Kshs.418, 156,528,347.00 was incurred against the Vote, resulting in an unexplained funding to the tune of Kshs.1, 922,097,175.00.

Submission by the Accounting Officer

The Accounting Officer stated that by the time of audit, the statement of receipt and payments showed amount of Kshs.416, 234,431,172.00 for servicing Public Debt interest and redemptions having been transferred from the National Treasury/Exchequer to Vote R 050-CFS Public Debt in the Financial Year 2014/2015. The balance of Kshs 1,922,097,175 was paid from unspent exchequer from previous financial year.

Committee Observation and Finding

The statement of receipts and payments for outstanding public debts showed that an amount of Kshs.416, 234,431,172 was transferred from the National Treasury/exchequer to Vote R050-CFS Public Debt in the FY 2014/2015. However, expenditure totaling Kshs.418, 156,528,347.00 was incurred against the Vote, resulting in an unexplained funding to the tune of Kshs.1, 922,097,175.00.

Committee Recommendation

The Accounting Officer should ensure that reconciliation of outstanding public debts is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

34. Bank Balance

The statement of financial position and the bank certificate reflect an overdraft bank balance of Kshs.37, 871,353.15 as at 30 June 2015. The cash book however reflects a bank balance of Kshs.126, 415,953.15 as at the same date. No reconciliation has been provided for the difference of Kshs.164, 287,306.30. Consequently, the accuracy of the bank balance as at 30 June 2015 is doubtful.

Submission by the Accounting Officer

The Accounting Officer stated the statement of financial position; bank certificate and board of survey report reflect a bank debit balance of Kshs. 37,871,353.15 and Cashbook bank balance of Kshs 126,415,923.15 as at 30th June, 2015. The bank reconciliation statement for C.F.S. R050 as at 30th June, 2015 was done and submitted for audit examination.

Committee Observations and Findings

i. **The financial statements on outstanding public debt reflected an overdraft bank balance of Kshs.37, 871,353.15 as at 30th June 2015. The cash book however reflected a bank balance of Kshs.126, 415,953.15 as at the same date. No**

reconciliation was provided at the time of audit for the difference of Kshs.164, 287,306.30; and

ii. **The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68 (2) of the PFM Act 2012 and that the correct 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.**

Committee Recommendation

The Accounting Officer should ensure that reconciliation of outstanding public debts is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

35. Omitted Balance

Note 25 to the financial statements reflect a Central Bank of Kenya-Public Debt (Sinking Fund) balance of Kshs.2, 093,437.50. The balance has, however, not been included in the statement of financial position. Thus, total financial assets balance has been understated by the same amount.

Submission by the Accounting Officer

The Accounting Officer stated by the time of audit Note 25 to the financial statement reflected as Central Bank of Kenya- Public Debt (Sinking Fund) balance of Kshs, 2,093,437.50. The understated amount has since been rectified and captured in the revised financial statements which were submitted for audit review.

Committee Observations and Findings

The notes to the financial statements on outstanding public debt reflected a Central Bank of Kenya-Public Debt (Sinking Fund) balance of Kshs.2, 093,437.50. The balance was, however, not been included in the statement of financial position; and

The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

Committee Recommendation

The Accounting Officer should ensure that reconciliation of outstanding public debts is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

36. Variances between Financial Statements and Loan Register Balances

Comparison of the balances as at 30th June 2015 reflected in the statement of outstanding public debt and the loans register in respect of one hundred and twenty-one (121) loans shows that the amounts in the two records do not tally. According to the financial statements, balances totaling Kshs.200, 133,177,393.28 listed in the Statement of outstanding public debt do not agree to a total of Kshs.140, 097,825,943.97 recorded in the loans register as outstanding against these loans.

Submission by the Accounting Officer

The Accounting Officer stated that by the time of audit, the statement of Outstanding Public Debt and the Loan Register in respect of 121 loans indicates that the amount in the two records does not agree. The difference in the two records observed was due to movements in the individual loan accounts and exchange rates which were recorded and maintained in the debt database. The entries in the two records have since been reconciled and forwarded for audit review.

Committee Observations and Findings

i. **The statement of outstanding public debt and the loan register in respect of 121 loans did not tally. Public debt balances totaling Kshs.200, 133,177,393.28 listed in the statement of outstanding public debt did not agree to a total of Kshs.140, 097,825,943.97 recorded in the loans register as outstanding against these loans.**

ii. **The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.**

Committee Recommendations

i. **The Accounting Officer should ensure that reconciliation of outstanding public debts is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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;**

ii. **The Accounting Officer, Dr. Kamau Thugge, be reprimanded for failure to keep up to date public debt register and a complete statement of the total amount of debts of national government that isoutstanding at the end of the financial year in line with Section 80 (2) (d) of the PFM Act 2012.**

37. Un-reconciled Balances

The statement of outstanding debt reflects a balance of Kshs.26, 615,000,000.00 relating to Pre-1997 Government Overdraft debt. The opening balance for the item was Kshs. 28,273,000,000 as at 1 July 2014, and a repayment of Kshs. 1,110,000,000 was made during the year as per the loan agreement between Government of Kenya and the Central Bank of Kenya. The closing balance, therefore, ought to have been Kshs. 27,163,000,000.00 and not Kshs.26, 615,000,000.00. The resultant difference of Kshs.548, 000,000.00 has not been explained. In addition, the statement of outstanding public debt shows treasury bills balance of Kshs.318, 928,150,000.00. The recalculated balance is, however, Kshs.290, 059,760,050.75 as indicated below resulting in a difference of Kshs.28, 868,389,949.25, which is yet to be investigated:

Description	Amount Ksh
Opening balance	299,406,150,000.00
Proceeds in 2014/2015	426,416,160,050.75
Total	725,822,310,050.75
Less repayments	(435,762,550,000.00)
Recalculated balance	290,059,760,050.75
Statement balance	318,928,150,000.00
Difference	28,868,389,949.25

Submission by the Accounting Officer

The Accounting Officer stated that the reconciliation exercise between The National Treasury and Central Bank of Kenya has been done to reflect the correct closing balance of Kshs.26, 668,755,685.50 and is supported by a Loan amortization schedule. The difference observed by the auditor is because he is using the net value and not the face value. In addition, the statement of outstanding Public Debt shows Treasury Bills balance of Kshs 318,928,150,000 and the auditors' recalculated balance of Kshs.290, 359,760,050.75 is based on net value and not face value. The reconciliation has been done and available for audit verification.

Committee Observations and Findings

i. **The reconciliation exercise between The National Treasury and Central Bank of Kenya for the statement of outstanding debt relating to Pre-1997 Government Overdraft debt was done after the audit period done to reflect closing balance of Kshs.26, 668,755,685.50; and**

ii. **The Accounting Officer failed to ensure that reconciliation of the statement of outstanding debt relating to Pre-1997 Government Overdraft was done in time of audit in compliance with the provisions of Sections 68(2), 80 of the PFM Act 2012 and that the correct 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(2) (k) of the PFM Act 2012.**

Committee Recommendation

The Accounting Officer should ensure that reconciliation of outstanding public debts is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2), 80 of the PFM Act 2012 and that the 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(2) (k) of the PFM Act 2012;

38. Un-supported Balances

The statement of financial position reflects balances of Kshs. 257,687,919.40 and Kshs. 1,859,315,165.65 referred to as prior year adjustments in 2014/2015 and 2013/2014 respectively. The statement further reflects balances of Kshs. 1,884,225,822.00 and Kshs. 1,275,147,069.20 referred to as differences for 2014/2015 and 2013/2014 respectively. The balances have, however, not been supported or explained.

Submission by the Accounting Officer

The Accounting Officer stated that the statement reflects balances of Kshs.257, 687,919.40 and Kshs.1, 859,315,165.65 as prior adjustments for 2014/2015 and 2013/2014 respectively. The amount of Kshs.257, 687,919.40 was a bank overdraft which became an opening bank balance on 1st July, 2014 and was cleared through the issuance of an exchequer in the year under review. Likewise, Ksh.1, 859,315,165.65 is the opening bank balance on 1st July, 2013 and was spent in that year. The statement has been revised to reflect the closing cash book and bank balances of Kshs.126, 415,953.15 and Kshs.3, 906,017,930.60 respectively and was submitted to the Auditor for review.

Committee Observations and Findings

i. **The statement of financial position for outstanding public debt reflected balances of Kshs. 257,687,919.40 and Kshs. 1,859,315,165.65 referred to as prior year adjustments in FY 2014/2015 and FY 2013/2014 respectively. The statement also reflected balances of Kshs. 1,884,225,822.00 and Kshs. 1,275,147,069.20 referred to** as differences for FY 2014/2015 and Fy 2013/2014 respectively which were not supported by any documentary evidence at the time of audit; and

ii. The Accounting Officer failed to ensure that statement of financial position for outstanding public debt were fully supported at the time of audit in compliance with the provisions of Sections 68(2), 80 of the PFM Act 2012 and that the correct 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.

Committee Recommendation

The Accounting Officer should ensure that statement of financial position for outstanding public debt are fully supported at the time of audit and that the entity keeps up-to-date consolidated financial and statements including outstanding public debt statement that comply with provisions of Section 68(2), 80 of the PFM Act 2012 and that the 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(2) (k) of the PFM Act 2012.

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

The statement of receipts and payments reflects total actual expenditure of Kshs.418, 156,528,347.15 in the year 2014/2015 compared to the previous year's amount of Kshs.228, 436,940,189.30 in respect of the public debts as summarized:

Sub Vote	Item	Item Description	Amount (Kshs.) 2014/2015	Amount (Kshs.) 2013/2014
501	2420000	External Debt Interest	33,330,189,096.35	17,081,184,346
	2410100	Internal Debt Interest	139,363,010,320.00	117,037,704,912
502	5210000	Internal Debt Redemptions	165,249,803,076.80	68,249,400,000
	5210600	External Debt Redemptions	80,213,525,854.00	26,068,650,931
		Total	418,156,528,347.15	228,436,940,189

The expenditure of Kshs. 33,330,189,096.35 and Kshs. 80,213,525,854.00 incurred on external debt interest and external debt redemptions includes amounts of Kshs. 2,845,254.70 and Kshs. 347,023,821.50 incurred on interest and principal loan repayments respectively, towards settlement of Government guaranteed debts incurred in 1970 on account of Ken-Ren Chemical and Fertilizer Company. As similarly observed in the previous years, it is a matter of concern that a total amount of Kshs.349, 869,076.20 was incurred during the year on a project which did not take off and against which no value for money was achieved.

Submission by the Accounting Officer

The Accounting Officer in stated that the obligation arose from a case filed in the Court of Arbitration of the International Chamber of Commerce by a Belgian Bank, Ducroire. The Court found the Government of Kenya liable as a guarantor to pay Euro 21.2 million. The loan has continued to be paid in accordance with Paris Club Consolidation of Debts Agreement, under which the Government negotiated to repay the amount commencing on 30th June, 2004 and ending on 30th June, 2016. The full amount has since been cleared.

Committee Observations and Findings

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

40. Growth in Public Debt

The statement of public debts as at 30thJune 2015 reflects an outstanding amount of Kshs 2,674,806,364,195.00 representing an increase of Kshs.423,960,454,908.00 or 19% of 2013/2014 outstanding debts balance of Kshs.2,250,845,910,286.00.

Committee Observations and Findings

i. **The outstanding total public debt, including publicly guaranteed debt, stood at Ksh 5,047,234 million (Ksh. 5 trillion) as at end June 2018, the compared to Ksh 4,406,863 million (Ksh. 4.4 trillion) at end June 2017 representing growth of public debt of approximately Ksh. 650 billion in one financial year.**
ii. **The total domestic debt increased from Ksh 2,112,710 million (Ksh. 2.1 trillion) at end June 2017, to Ksh2,478,835 million (Ksh. 2.48 trillion) in June 2018 representing a growth of approximately Ksh. 370 billion in one financial year.On**

the other hand, external debt (including guaranteed debt) increased by 12.0 per cent from Ksh 2,294,153 million (Ksh. 2.3 trillion) at end June 2017 to Ksh 2,568,398 million (Ksh. 2.57 trillion) at end June 2018 representing a growth of approximately Ksh. 280 billion in one financial year.

KENYA LOCAL LOANS SUPPORT FUND

Basis for Disclaimer of Opinion

41. Presentation and Disclosure of the Financial Statements

The financial statements of Kenya Local Loans Support Fund as at 30 June 2015 were not prepared in accordance with International Public Sector Accounting Standards (Accrual Basis) as prescribed by Public Sector Accounting Standards Board. The financial statements submitted do not include accounting policies used in their preparation and other explanatory information and disclosures.

Submission by the Accounting Officer

The Accounting Officer stated that the time of audit, the Financial Statement of Kenya Local Loans Support Fund as at 30th June 2015 had not been prepared in accordance with International Public Sector Accounting Standards (Accrual Basis) as prescribed by the Board. Further the Financial Statement submitted did not include accounting policies used in their preparation and other explanatory information and disclosure. This is because the public sector accounting standards board had not prescribed the format for presentation.

Committee Observation and Finding

The Financial Statement of Kenya Local Loans Support Fund as at 30th June 2015 were not prepared in accordance with International Public Sector Accounting Standards (Accrual Basis) as prescribed by the Board and did not include accounting policies used in their preparation and other explanatory information and disclosure. This is because the public sector accounting standards board had not prescribed the format for presentation.

Committee Recommendation

The Accounting Officer should prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time in compliance with the provisions of Section 81(3) of the PFM Act 2012 and that the correct 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;

42. Failure to Redeem Stocks

In the reports for previous years' reference had been made to stocks valued at Kshs.10, 430,700.00 which were past their redemption dates with the last redemption date for a sum of Kshs.17, 400.00 having been on 6 February 2010. The National Treasury has explained that the stocks were redeemed some years ago but erroneously accounted for as revenue. However, records to confirm the erroneous accounting for receipts and subsequent correction in the books of account have not been made available for audit review to date.

Submission by the Accounting Officer

The National Treasury had explained that the stocks worth Kshs 10,430,700.00 were redeemed some years ago but erroneously accounted for as revenue. The bank confirmed in writing that redemption proceeds in respect of 6% Kenya Stock 1997 of Kshs. 4,045,400.00 are still held in the Sundry Creditors account in Central Bank of Kenya assigned to the P.S. National Treasury while stocks worth Kshs.6,385,300.00 have nil balance in the bank books indicating that they were redeemed. It has been a challenge to trace the records of 6% Kenya Stock 1997 of Kshs.4, 045,400.00 due to the old nature of records. The National Treasury has written to CBK requesting the date of redemption of Kshs.6, 385,300.00 to enable it trace their receipts and account for them.

Issue was retained to wait for response from the Central Bank of Kenya. The issue is also being addressed through a task force on Old Balances.

Committee Observations and Finding

The Committee observed that the issue was among those being addressed by the Task Force on Old Outstanding balances. The issue remains unresolved awaiting response from the Central Bank of Kenya and completion of work by the Task Force.

Committee Recommendation

The Principal Secretary National Treasury should ensure that Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

43. Winding Up of the Fund

According to information available, the Kenya Local Loans Support Fund is in the process of being wound up in line with recommendations of the Public Accounts Committee and instructions issued by the National Treasury that all dormant funds be wound up. However, no evidence has been made available to show the stage that the process of winding up the Fund had reached as at 30 June 2015.

Submission by the Accounting Officer

The Accounting Officer stated that the Kenya Local Loans Support Fund (KLLSF) is dormant and earmarked for winding up in line with recommendations of Public Accounts Committee and instructions by Treasury that all dormant funds are wound up.A task force was constituted to prepare information and recommend the winding up of Dormant Funds including KLLSF prepared a progress report as at 30th June, 2015. A copy of the report has been availed for audit review.

Committee Observation and Finding

The Committee observed that the issue was among those being addressed by the Task Force on dormant Funds. The issue remains unresolved awaiting response from the Central Bank of Kenya and completion of work by the Task Force.

Committee Recommendation

The Principal Secretary National Treasury should ensure that Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

44. Unsupported Balances

The balances reflected in the financial statements under interest on investment, investment at cost, debtor - Cereal & Sugar Finance Corporation, accrued interest, cash with PMG, fund account and accumulated interest of Kshs.660,000.00,Kshs.10,410,373.50, Kshs.8,580,000.00, Kshs.660,000.00, Kshs.67,355,406.15, Kshs.5,000,000.00 and Kshs.72,765,779.65, respectively have not been supported by analyses and other documentary evidence. The accuracy of the balances could not, therefore, be ascertained.

Submission by the Accounting Officer

The Accounting Officer stated that Kenya Local Loans Support Fund is a dormant fund. The amounts reflected in the statement under Investment at cost Kshs. 10,410,373.50, Interest on investment – Kshs. 660,000.00, Accumulated Interest – Kshs. 8,580,000.00, Cash with PMG – Kshs. 67,355,406.15, Fund Account – Kshs. 5,000,000.00 and Accumulated Interest 2007/2008 Kshs. 72,765,779.65 are old balances and will be cleared when the fund is wound up.

Committee Observations and Findings

The Committee observed that the issue was among those being addressed by the Task Force on Old Outstanding balances. The issue remains unresolved awaiting response from the Central Bank of Kenya and completion of work by the Task Force. The task force was to report after 9 months.

Committee Recommendation

The Principal Secretary National Treasury should ensure that Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

STATEMENT OF REVENUE - PENSIONS DEPARTMENT

Basis for Adverse Opinion

45. Un-supported Balances

The statement of revenue under Note 4 reflects General Deposit-PMG, Other Suspense and Pensions Increase Asiatic Widows & Orphans Pension Fund (P. Increase AWOPF) account balances of Kshs. 1,051,602,039.19, Kshs. (1,971,533.55) and Kshs. 4,583.15 respectively, which are not supported by trial balance figures and analyses.The Note further shows actual revenue totalingKshs. 2,125,593,875.47 which includes balances relating to 2013/2014 and earlier years totalingKshs. 1,476,356,050.23. However, the statement of revenue reflects balance brought forward from 2013/2014 of Kshs.19, 047,058.68 instead of Kshs. 1,476,356,050.23. No explanation has been given for this anomaly or documentary evidence provided to confirm that part of the amount Kshs.1, 457,308,991.55 was transferred to the Exchequer Account in the year 2013/2014 or thereafter as reflected in the statement.

Submission by the Accounting Officer

The Accounting Officer in stated that at the time of audit the statement of revenue under Note 4 reflects General Deposit – PMG, Other deposit and pensions Increase Asiatic Widows & Orphans Pension Fund account balances of Kshs 1,051,602,039.19, Kshs (1,971,533.55) and Kshs 4,583.15 not supported with a trial balance figures and analysis. However, the figure has since been analyzed supported by the ledger and trial balance and submitted for review.

At the time of audit, the actual accumulative closing Cash book revenue balance as at 30th June 2015 was Kshs 2,125,593,875.47 which includes balances relating to 2013/2014 and earlier years totaling to Kshs 1,476,356,050.23, but the statement of revenue reflects balance brought forward from 2013/2014 of Kshs 19,047,058.68 instead of Kshs 1,476,356,050.23. The revenue balance of Kshs.19, 047,058.68 is correctly stated in the statement of accounts after taking into account the amount transferred to Exchequer Account of Kshs.1, 457,308,991.55. Documents transferring the same to Exchequer have been provided for audit review.

Committee Observations and Findings

i. **At the time of audit, the actual accumulative closing cash book revenue balance as at 30th June 2015 was Kshs 2,125,593,875.47 which includes balances relating to 2013/2014 and earlier years totaling to Kshs 1,476,356,050.23, but the statement of revenue reflects balance brought forward from 2013/2014 of Kshs 19,047,058.68 instead of Kshs 1,476,356,050.23;**
ii. **There is need to get and install a new pension management system which could keep and store information on pensioners and that the Pensions Department require increase both human capital and skills capacity at the to address the challenges faced by the pensioners; and**
iii. **The issue was among those being addressed by the Task Force on Old Outstanding balances. The issue remains unresolved awaiting response from the Central Bank of Kenya and completion of work by the Task Force.**

Committee Recommendations

i. **The Cabinet Secretary for the National Treasury should ensure that the Taskforce on Dormant Funds should complete its work within six months from August 2018 and submit its report to the Auditor General not later than end of February 2019.**

ii. **The Cabinet Secretary for the National Treasury should, within three (3) months of tabling this report embark on revamping the public service pensions management system to enhance transparency and accountability of the Pensions Department so as to facilitate rather that frustrate pensioners in accessing their pension dues.**

iii. **The Cabinet Secretary for the National Treasury should within three (3) months of tabling of this report, submit to Parliament the Regulations for the Public Service Superannuation Scheme Act No. 8 of 2012 whose implementation has been put in abeyance for inordinately long period of time. The implementation of the Act is expected to enhance governance, transparency and accountability of public service pension management in the country by making operational Public Service Superannuation Fund and Board of Trustees.**

46. Transfer of Revenue to the Exchequer

The statement of revenue shows that an amount of Kshs.668, 284,883.92 was transferred to the Exchequer Account during the financial year 2014/2015. The transfer has, however, not been supported by a payment voucher and bank records and neither has it been recorded in the cashbook and the ledger.

Submission by the Accounting Officer

The Accounting Officer stated that at the time of audit, the statement of revenue shows that amount of Kshs.668, 284,883.92 was transferred to the Exchequer Account during the financial year 2014/2015. The amount was transferred to Exchequer Account on daily basis which is supported by bank daily statement showing nil balance at the end of the day, monthly cash receipts issued by exchequer and a payment voucher was prepared and posted in the cash book.

Committee Observations and Findings

The Pensions Department Statement of Revenue showed an amount of Kshs.668, 284,883.92 was transferred to the Exchequer Account during the FY 2014/2015. However, the transfer was not supported by a payment voucher and bank records and was not recorded in the cashbook and the ledger.

47. Comparative Figures for 2013/2014

The statement of revenue reflects under year 2013/2014 revenue totaling Kshs.1, 457,308.991.55 which includes a brought forward balance of contributions and recoveries amounting to Kshs.840, 964,209.75 as per the following analysis:

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

However, no evidence has been provided for audit review to confirm that the total accumulated contributions and recoveries of Kshs. 1,457,308,991.55were surrendered to the Exchequer as at 30 June 2015 as required under Government Financial Regulations and Procedures. The ledger for 2014/2015 still shows that the amounts are being held by the Pensions Department.

(iii)Note 4 to the statement of revenue also reflect Other Suspense balance of Kshs.1, 971,533.15 relating to overpayments of pension made over the years. However, the balance has not been analyzed. In addition, no indication has been given regarding how the Pensions Department intends to recover the amounts overpaid to the pensioners.

Submission by the Accounting Officer

The Accounting Officer in stated that other suspense balance of Kshs.1, 971,533.15 has since been analyzed. The balance of Kshs.1, 971,533.55 is not an overpayment but relates to historical balances which are being addressed by the taskforce on Old balances.

Committee Observation and Finding

The Committee observed that the issue was among those being addressed by the Task Force on Old Outstanding balances. The issue remains unresolved awaiting response from the completion of work by the Task Force. The task force was to report after 9 months.

Committee Recommendation

The Principal Secretary National Treasury should ensure that Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

48. Financial Position

The accumulated actual revenue balance of Kshs. 2,125,593,875.47 disclosed under Note 4 to the statement and nil balance carried forward as at 30th June 2015 reflected in the statement of revenue have not been supported by related cashbook balances or bank records. In addition, no bank reconciliation statement or statement of financial position as at 30 June 2015 for the revenue has been prepared and submitted for audit.

Submission by the Accounting Officer

The Accounting Officer stated that the accumulated actual revenue balance was Kshs. 668,284,883.92 and not Kshs. 2,125,593,875.47 disclosed under Note 4 because Kshs. 1,457,308,997.55 had been transferred to the exchequer account by 30th June 2014. However, this transfer was erroneously omitted in the cash book as at 30th June 2014 but has since been rectified in the year under review. Disclosed under Note 4 to the statement is the cash book balance of Kshs.2, 125,593,875.47 before two transfers to Exchequer Account were posted into the cash book, but after the posting of transfers the position of the cash book results to a Nil balance.

Committee Observations and Findings

The accumulated actual revenue balance was Kshs. 668,284,883.92 and not Kshs. 2,125,593,875.47 disclosed under Note 4 because Kshs. 1,457,308,997.55 had been transferred to the exchequer account by 30th June 2014.

CONSOLIDATED FUND SERVICES - PENSIONS AND GRATUITIES

Basis for Qualified Opinion

49. Bank Balance

The statement of financial position reflects a bank balance of Kshs.84, 162,693.00 while the cash book, bank reconciliation statement and board of survey report reflect a balance of Kshs.461, 745,830. The resulting difference of Kshs.377, 583,137.05 has not been reconciled.

Submission by the Accounting Officer

The Accounting Officer stated that the reconciliation between the ledger balance of Kshs. 84,162,693 and the cash book figure of Kshs. 461,745,830 has been done and submitted for audit review.

Committee Observation and Finding

The statement of financial position for CFS (Pensions and Gratuities) reflected a bank balance of Kshs.84, 162,693.00 while the cash book, bank reconciliation statement and board of survey report reflected a balance of Kshs.461, 745,830 at the time of audit. The resulting difference of Kshs.377, 583,137.05 has not been reconciled by the Accounting Officer.

Committee Recommendation

The Accounting Officer should ensure that the statement of financial position for the CFS (Pensions and Gratuities) are prepared and reconciled in time in compliance with the provisions of Sections 68(2), 80 of the PFM Act 2012 and that the correct 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(2) (k) of the PFM Act 2012.

50. Payables

Re-credited Cheques

The payables' balance of Kshs. 2,300,281,209.00 reflected in the financial statements and disclosed under Note 8.5 as re-credited cheques relates to cheques and electronic transfers to pensioners through various banks and Sacco's which were returned due to various reasons such as incorrect bank accounts, closed bank accounts and incorrect bank codes. Although the pensions department has implemented several measures like encouraging pensioners to give correct information, obtaining mobile telephone numbers for pensioners or dependents for contacts and having inbuilt bank codes in the Pension Management Information System (PMIS) among others, the balance continues to increase over the years. The year 2013/2014 balance was Kshs.2, 172,347,374.00.

Unsupported Clearance

The payables' balance of Kshs.2, 470,236,646.00 for the financial year 2013/2014 included an amount of Kshs.129, 259,140.00 due to the Post Bank. The amount was cleared during 2014/2015 financial year, but documentary evidence on how the amount was cleared has not been provided.

Submission by the Accounting Officer

The Accounting Officer stated that: -

Re-Credited Cheques

The payables' balance of Kshs. 2,300,281,209.00 reflected in the financial statements and disclosed under Note 8.5 as re-credited Cheques relates to Cheques and electronic transfers to pensioners through various banks and Sacco's which were returned due to various reasons which has increased by Kshs. 127,933,835 from the year 2013/2014 balance of Kshs. 2,172,347,374.
Despite the introduction of the various reforms the increase in returned pension is caused by increase in number of pensioners, the revised pension rates, death of pensioners and dependents/guardians giving wrong data and taking long to report the death of the pensioner. To address the challenges, the National Treasury is carrying out sensitization to the public through help desks in Huduma Centers and participation in trade shows.

Un-Supported Clearance

By the time of audit payables' balance of Kshs.2, 470,236,646 for the financial year 2013/2014 included an amount of Kshs.129, 259,140.00 due to the post bank. The amount was cleared vide journal voucher no. 000001 and was forwarded for audit review.

Committee Observations and Findings

i. **It is unfortunate that cheques and electronic transfers to pensioners through various banks and SACCOs continue to be returned to Pensions Departments while the beneficiary pensioners are languishing in poverty. The amounts returned due to** various reasons increased by Kshs. 127,933,835 from the FY 2013/2014 balance of Kshs. 2,172,347,374 (Ksh. 2.17 billions).

ii. **The reasons for the return of the funds to Pensions Department advanced by the Accounting Officer was not that convincing to the Committee since there are alternatives channels of ensuring the funds reach the pensioners. The sensitization to the public through help desks in Huduma Centers and participation in trade shows are not panacea to maladministration at the Pensions Department.**

Committee Recommendations

i. **The Principal Secretary National Treasury should ensure that Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.**
ii. **The Principal Secretary for the National Treasury should, within three (3) months of tabling this report embark on revamping the public service pensions management system to enhance transparency and accountability of the Pensions Department so as to facilitate rather that frustrate pensioners in accessing their pension dues; and**
iii. **The Principal Secretary for the National Treasury should within three (3) months of tabling of this report, submit to Parliament the Regulations for the Public Service Superannuation Scheme Act No. 8 of 2012 whose implementation has been put in abeyance for inordinately long period of time. The implementation of the Act is expected to enhance governance, transparency and accountability of public service pension management in the country by making operational Public Service Superannuation Fund and Board of Trustees.**

51. Service Gratuity

The following service gratuity balances brought forward from the financial year 2013/2014 and previous years were cleared from the books on 30 June 2015 through journal vouchers as follows;

Journal Voucher No	Account Description	Amount Kshs
000014	Contract gratuity	151,553,515.15
000012	Marriage gratuity	727,458.65
000013	Retrenchment gratuity	18,709,786.40
Total		**170,990,760.20**

However, the journal entries could not be traced in the ledger. It is, therefore, not possible to ascertain the validity and correctness of the above adjustments and their effect on the financial statements.

Submission by the Accounting Officer

The Accounting Officer in stated that by the time of audit, the following service gratuity balances brought forward from the financial year 2013/2014 and previous years were cleared from the books on 30th June 2015 through journal vouchers. The journal entries and the ledgers have since been availed for audit review.

Committee Observation and Finding

The statement of financial position for CFS (Service Gratuities) were not reconciled since the journal entries could not be traced in the ledger.

Committee Recommendation

The Accounting Officer should ensure that the statement of financial position for the CFS (Service Gratuities) are prepared and reconciled in time in compliance with the provisions of Sections 68 (2), 80 of the PFM Act 2012 and that the 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(2k) of the PFM Act 2012.

52. Bank Reconciliation Statement for the CFS Cash Book-Account No 01- 010 R051

52.1 Payments in Cash Book not in Bank Statement

The bank reconciliation statement as at 30th June 2015 shows payments in cash book not reflected in bank statement totaling Kshs.653, 006,985.85. The payments include amounts paid to the Chief Accountant of Kshs.6, 798,604.55. The Pensions department has not explained why the payments have not been effected by the Bank. The reconciliation also shows tax recovered (P.A.Y.E) from pensioners totaling Kshs.13, 302,006.90 paid in the cashbook but not reflected in the bank statement. No explanation was provided for failure to remit the said taxes.

Submission by the Accounting Officer

The Accounting Officer in that the bank reconciliation statement as at 30th June 2015 reflected un-cleared payments made to the Chief Accountant in respect to Abatements of Kshs 6,798,604.55. This delay was occasioned by in payee's bank details caused by change from G-pay to internet banking. This has since been cleared

The reconciliation showed that the tax recovered (PAYE) from pensioners totaling Kshs 13,302,006.90 in the cashbook and not reflected in the bank statement. This delay was occasioned by change in payee's bank details caused by change from G-pay to internet banking. Out of the figure in question, an amount of 13,114,464.55 has since been cleared leaving a balance of Kshs 187,542.35. Efforts are being made to clear the remaining balance. (Appendix 52)

Committee Observation and Finding

There was no reconciliation of bank statement as at 30th June 2015 which reflected un-cleared payments made to the Chief Accountant in respect to Abatements of Kshs 6,798,604.55. This delay was occasioned by in payee's bank details caused by change from G-pay to internet banking. This has since been cleared.

Committee Recommendation

The Accounting Officer should ensure that the cash books for the CFS are prepared and reconciled in time in compliance with the provisions of Sections 68(2) ,80 of the PFM Act 2012 and that the correct 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.

52.2 Receipts in Bank Statement Not in Cash Book

The bank reconciliation statement as at 30 June 2015 reflects receipts in bank statement not posted to the cashbook totaling Kshs.214, 402,476.80. The receipts include direct credits with some dating back to the year 2009 as analyzed below:

Year	Amount (Kshs)
2009	5,307,517.20
2011	59,852,702.40
2012	11,237,521.65
2013	27,563,922.10
2014	22,253,042.70
2015	69,358,078.35
Total	**195,572,784.40**

The Accounting Officer was unable to establish why the receipts had not been posted to the cashbook by 30 June 2015. Further, included in the schedule of the receipts in the bank statement that is not in the cashbook, is cash book under casts totaling Kshs.1, 341,991.70 as follows:

Date	Ref.	Amount (Kshs)
1/6/2012	-	121,694.90
20/12/2013	EFT 13354	1,217,676.00
20/12/2013	EFT 13354	2,620.80
Total		**1,341,991.70**

The cash book balance is therefore understated.

Submission by the Accounting Officer

The Accounting Officer stated that the bank reconciliation statement as at 30th June 2015 reflects receipts in bank statement not posted in the cash book totaling Kshs.214, 402,476.80 out of which Kshs.201, 930,313.50 has since been cleared leaving a balance of Kshs.12, 472,163.30 and efforts are being made to clear the balance.

Further included in the schedule of the receipts totaling Kshs 1,341,991.70 in the bank statements that are not recorded in the cashbook are cash book under casts and have since been rectified and submitted to the Auditor for review.

Committee Observation and Finding

The bank reconciliation statement for CFS as at 30 June 2015 reflects receipts in bank statement not posted to the cashbook totaling Kshs.214, 402,476.80

Committee Recommendation

The Accounting Officer should ensure that the CFS financial statements are prepared and reconciled in time in compliance with the provisions of Sections 68(2) ,80 of the PFM Act 2012 and that the correct 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.

52.3 Payments in the Bank Statement but not in the Cashbook

The bank reconciliation statement shows payments in the bank statement not in the cashbook totaling Kshs.14, 891,204.65 in respect of cheques fraudulently paid by the pension's department employees and third parties. The employees who were involved in fraud of cheques worth Kshs.3, 764,617.15 were taken to court but later acquitted. Although the pensions department has not appealed against the judgment, the amount has not been written off from the books of account. The court case relating to the fraud of the remaining Kshs.11, 126,587.50 has not been determined and recovery of the amount is uncertain.

The reconciliation also reflects refer to drawer cheques worth Kshs. 204,272.30. The amount was reversed in the cash book on 6 August 2008 but a corresponding entry is not reflected in the bank statement. The reconciliation statement also shows a cash book under cast of Kshs.419, 699.50 dated 30/9/2014. I am unable to ascertain why the under cast is reflected as payment in the bank statement not in the cashbook.

Included in the reconciliation statement are transactions described as unpaid cheques totaling Kshs.792, 960.40 and all dated 10 January 2012. No reason has been provided as to why the cheques have not been paid since 2012.

Submission by the Accounting Officer

The Accounting Officer stated that:-

i) The statements showed payments in the bank statement not reflected in cash book totaling Kshs 14,891,204.65. These relates to cheques fraudulently paid by the department. The officers purported to be involved in the fraud were acquitted by the court, therefore the department lost the case. The National Treasury is awaiting court determination for the remaining cheques worth Kshs 11,126,587.50. The write-off process for the cheques totaling Kshs 3,764,617.15 is ongoing to necessitate removal of the figure from the books.

ii) Kshs 204,272.30 relates to a cheque entry reversed in the cashbook on 6/6/2008 but there was no corresponding entry in the bank account. The cheque could not be reflected in the bank statement because it was cancelled and not presented to the bank.

iii) The reconciliation statement also showed a cash book undercast of Kshs 419,699.50 dated 30/9/2014. These cash book error entries have since been rectified and resubmitted for audit review.

iv) The reconciliation statement included transactions described as unpaid cheques totaling Kshs 792,960.40 all dated 10th January 2012. These are un-presented cheques. The reconciliation was done and submitted for Audit review.

Committee Observation and Finding

There was not complete reconciliation of statements for CFS as at 30 June 2015 were not fully undertaken in time for audit contrary to the provisions of Sections 68(2), 80 of the PFM Act 2012 and that the 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.

Committee Recommendation

The Accounting Officer should ensure that the CFS financial statements are prepared and reconciled in time in compliance with the provisions of Sections 68 (2), 80 of the PFM Act 2012 and that the correct 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(2) (k) of the PFM Act 2012.

52.4 Receipts in Cash Book and not in the Bank Statement

The bank reconciliation statement reflects receipts in the cash book that are not in the bank statement totaling Kshs.99, 842,169.00. The receipts include transactions for the between years 2007 and 2015 as follows.

Year	**Amount (Kshs)**
2007	58,075.90
2008	4,140.15
2010	42,720,845.40
2011	16,393,075.15
2012	14,293,398.40
2013	5,585,462.45
2014	12,295,622.60
2015	8,491,549.55
Total	**99,842,168.40**

No reason has been provided for apparent failure to capture these receipts in the bank statements.

Submission by the Accounting Officer

The reconciliation statement reflects receipts in the cashbook and not in the bank statements totaling Kshs.99, 842,169. Out of this Kshs.6, 240 has been cleared. Efforts are being made to reconcile/clear the remaining balance of Kshs.99, 835,929.

Committee Observation and Finding

There was not complete reconciliation of statements for CFS as at 30 June 2015 were not fully undertaken in time for audit contrary to the provisions of Sections 68(2) ,80 of the PFM Act 2012 and that the correct 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.

Committee Recommendation

The Accounting Officer should ensure that the CFS financial statements are prepared and reconciled in time in compliance with the provisions of Sections 68(2) ,80 of the PFM Act 2012 and that the 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.

53. Pension Management Information System (PMIS)

Audit of the Pension Management Information System (PMIS) revealed weak controls in the system as highlighted below.

i) The system is able to capture, save and process pension payments with incomplete data, for example, 69,715 pensioners' files with dummy Identification Numbers or personal numbers were identified.

ii) The audit also revealed that 601 pension files were being processed without pensioner's names, 6890 files without identification numbers and 6896 files without personal numbers.

iii) 227 Pensioners PIN as per the pension file differs with PIN certificates held at Kenya Revenue Authority.

iv) Sixty-nine thousand, nine hundred and fifty-six (69,956) pensioners' and dependents' files were showing the same date for pensioners' dates of birth and dates of enrolment respectively. Out of this total, 48,195 files showed that all dependents were born the same year 2000 which is unlikely.

v) Four thousand, four hundred and seventy (4,477) dependents in the system were aged over 70 years. According to the pension policy such dependents are required to provide life certificates every six months. However, the certificates were not provided as required and there is risk of payments being made to deceased dependents.

vi) There were 24 beneficiaries under the 5PN category (where the widow receives pension for 5 years after the death of the husband) who have continued to be paid after expiry of the benefit period.

vii) Four hundred and sixteen (416) disability cases files were missing from the disability master file.

The PMIS does not include data for period before year 2009. It is, therefore, not possible to verify information relating to pensioners prior to that year.

Submission by the Accounting Officer

The Accounting officer stated that the National Treasury has recognized and appreciated the observations made by the Auditor on PMIS and had the following responses to make:

i) Due to migration of data from one system to the other, some data may fail to migrate since the designs of databases are different. Different programmers use different methods of programming and database designs which may not perfectly match the previous design. In this case, the legacy system had fewer mandatory fields compared to Pension Management Information System (PMIS). Due to this, the mandatory data fields must be populated with data and hence the developer comes up with a unique name (dummy variable) which represents the information in that field with an objective of updating it after the project has been commissioned.

ii) The audit also revealed that 601 pension's files were being processed without pensioner's name, 6,890 files without identification numbers and 6,896 files without personal numbers.

The Accounting Officer stated that: -

i) The main payroll data contains names of all pensioners in the payroll. In the dependents' payroll, the dependents file number is merged with/linked to the principal pensioners file number. Some cases migrated from the legacy system. The name of the principal pensioner may miss but not that of the dependent receiving payment. The authenticity of such cases is normally verified from the physical pension file until the data migration process is completed.

ii) In the migrated data from the legacy system some information such as the pensioner national identification number/death certificate number and personal number may miss but the most important number is the pensioner file number which is unique and linked to all tables which gives the details of pensioners. All the file records captured after PMIS was commissioned on 26th March 2009 can only be processed with all the required information.

iii) 227 Pensioners PIN as per the pension file differs with PIN certificates held at Kenya Revenue Authority. The case where the PIN numbers in the PMIS differs with the PIN certificates held by KRA is as a result of challenges experienced during the migration of data from the legacy system to the PMIS. However, pensioner's number must be correct. It may however be noted that pension file data captured in the PMIS w.e.f 26/03 2009 has up to date information. The updating of old files is ongoing on a routine basis as claims for dependent's pension or revised claims are received.

iv) Sixty-nine thousand, nine hundred and fifty-six (69,956) pensioners' and dependents' files were showing the same date for pensioners' date of birth and date of enrolment respectively. Out of this total, 48,195 files showed that all the dependents were born in the same year 2000 which is unlikely. The accounting officer also noted that the date of birth of a pensioner has no adverse effect on his pension once lump sum has been paid and the pensioner introduced in the payroll. All new claims that were received w.e.f 26/3/2009 bear the correct dates of birth for both pensioners and dependents. It may further be noted that files that were migrated from the legacy system may share the same date of birth that was used as dummy data in such mandatory data field to allow continued payment of such dependents until cleansing of the data was done. Had the Department stopped payment of monthly payrolls until all the missing data from the newly introduced mandatory fields was captured from the manual pension file records, it could have taken several years thus subjecting pensioners to unwarranted suffering. The Department is engaged in migration of data on a continuous process. As stated before, different designers and developers of databases and system use different ways of doing so. The data of birth from the migrated data was a required field which could not have been left blank. Because of this the data set was to facilitate the process of the migration. Four thousand, four hundred and seventy-seven (4,477) dependents in the system were aged 70 years. According to the pension policy such dependents are required to provide life certificate every six months. However, the certificates were not provided as required and there is a risk of payment being made to deceased dependents.

v) The Auditor Generals' report was also said to have revealed that 4,477 dependents in the system were aged over 70 years. It may however be noted that widows are eligible for pension for life as provided under the Widow's and Children's Pensions Act Cap 195. It is therefore not irregular to pay such pension to a widow aged over 70 years. In the case of the 5 years dependents pension, as a control measure, a cease date is a mandatory requirement for a payment to go through and payment automatically ceases on that date. It may also be noted that the practice requiring dependents to complete life certificates every six months was a colonial policy that was discontinued and the Department adopted other means of establishing cases of deceased pensioners from returns from the bank or reports from family members who come to claim the dependents or widows and children's pension. The Department is planning to conduct a biometric registration of pensioners and dependents as part of data and payroll updating. There were 24 beneficiaries under 5PN category (where the window receives pension for 5 years after the death of the husband) who have continued to be paid after expiry of the benefit period. Some old cases migrated from the legacy system that were found to have been running in the payroll after the cease date, were deleted from the payroll in February 2016 as per the attached list. Treasury wrote to the bank to return the paid amount.

vi) Four hundred and sixteen (416), disability cases files were missing from the disability master files. The disability files are linked to the pensioners file and therefore do not exist in isolation. The DPN/P files for disability are linked to the main normal pension files for the retired military officer's files with the prefix APN/MP.

vii) It may not be so for some cases due to data migration challenges faced during the transition from the old system to the PMIS. In the case of civilians, the injury files with the prefix JPN/PC are linked to the pensioners' normal files with the prefix APN/PC. The PMIS does not include data for period before year 2009. It is therefore, not possible to verify information relating to pensioners prior to that year. This was not true. In fact, pensioners' data that was in the legacy system prior to April 2009 was migrated to the PMIS. However data for the previous payrolls exist in manual form and is available at the Department's Registry which also holds over 500,000 pensioners file records.

However, all pensioners in the PMIS have unique pension file numbers which are available for verification against the electronic records whenever required. It may be noted that the first file to be enrolled in the PMIS as a fresh claim is file number APN/PC0000214236.

CONTROLS:

The PMIS only allows processing of pension payments on electronic file after data entry is correctly done. The Department still uses a dual payment processing system where the physical pension file accompanies the electronic file for purposes of information verification. The system has mandatory field where correct data must be entered to allow for transition to the subsequent workflow levels of pension payment process until a case reaches the final payment stage. It's only after commuted pension gratuity has been approved for payment in accounts section that the alert for monthly pension is generated in the payroll paid that The Controller of Budget (CoB) is part of this process and no file can be paid without approval by the CoB. However, I recognize the challenges and observations of the Auditor and already procurement processes for the new system has started.

Committee Observation and Finding

There is need install a new robust pension management system which could keep and store information on pensioners and that the Pensions Department needs recalibration to address the maladministration of the Department including both human capital and skills capacity.

Committee Recommendations

i. **The Cabinet Secretary for the National Treasury should, within three (3) months of tabling this report embark on recalibrating the Pensions Departments by revamping the public service pensions management system to enhance transparency and accountability so as to facilitate rather that frustrate pensioners in accessing their pension dues; and**

ii. **The Cabinet Secretary for the National Treasury should within three (3) months of tabling of this report, submit to Parliament the Regulations for the Public Service Superannuation Scheme Act No. 8 of 2012 whose implementation has been put in abeyance for inordinately long period of time. The implementation of the Act is expected to enhance governance, transparency and accountability of public service pension management in the country by making operational Public Service Superannuation Fund and Board of Trustees.**

54. Funds Transferred to Public Trustee

Audit of Public Trustee regional offices undertaken in March 2015 revealed the following unsatisfactory matters.

54.1 Unpaid Gratuities

Estate/trust files and records indicated that death gratuities totaling Kshs.131, 826,452.15 and relating to period, July 2013 to December 2014 were received by the public trustees from the pensions department but no transactions or claims have been lodged by the beneficiaries. The details are as follows:

Regional Office	**Amount Kshs**.
Kisumu	22,880,683.95
Kakamega	22,285,294.50
Eldoret	40,118,839.80
Nakuru	39,838,717.15
Kisii	6,702,916.75
Total	**131,826,452.15**

No action appears to have been taken to facilitate payment of these death gratuities to the beneficiaries.

Submission by the Accounting Officer

The Accounting Officer stated that the current policy is that the National Treasury processes payments for dead pensioners through Public Trustee. The Public Trustee office is under the office of the State Law Office which is subjected to audit like any other public accounting unit. Any payment to Public Trustee is acknowledged with a receipt. Therefore, the issues raised by the Auditor should have been addressed to the office of the Public Trustee. The National Treasury has written vide Ref EPN/167/025/ Vol X ii dated 22nd August 2016 and Ref. EPN/167/025 Vol.xiii (6) dated 26th March 2018 requesting the State Law Office to respond to the issues raised by the Auditor. The consultations between two offices will be held on the way forward.

Committee Observation and Finding

Estate/trust files and records indicated that death gratuities totaling Kshs.131, 826,452.15 and relating to period, July 2013 to December 2014 were received by the public trustees from the Pensions Department but no transactions or claims have been lodged by the beneficiaries.

Committee Recommendation

The Attorney General who is in charge of the office of the Public Trustee in the State Law Office should embark on public awareness programmes including the use of Public Administration Systems such as Chief's Offices to reach out to the beneficiaries of death gratuities.

54.2 Long Outstanding Ledger Account Balances

Death gratuities paid to beneficiaries are net of estate management costs which include advertisement and gazettement costs. The balance is then retained in the estates ledger thereby earning interest from investments. An amount of Kshs.39, 578,248.96 had been realized as interest during the period under review and remained outstanding in the ledgers for the regions as follows:

Region	**Amount (Kshs)**
Kisumu	11,372,082.71
Kakamega	11,054,797.25
Eldoret	7,334,349.25
Nakuru	2,992,607.55
Kisii	6,824,412.20
Totals	**39,578,248.96**

It has not been explained how the amount will be applied or cleared from the ledgers.

Committee Observation and Finding

The Accounting Officer has not put in place measures on how long outstanding ledger account balances including interest earned from investments of death gratuity balances retained in the ledger.

Committee Recommendation

The Accounting Officer should put in place measures on clearing long outstanding ledger account balances and policy on utilization of interest earned from investments of death gratuity balances retained in the ledger.

54.3 Failure to Provide Records

The Public Trustee offices in five (5) regions did not provide for audit files for death gratuities under their custody as indicated:

Number of files	Number of files not provided		Amount Kshs
Malindi	17	1	159,738.00
Mombasa	97	17	13,348,141.00
Machakos	229	120	96,780,411.00
Nyeri	122	16	16,620,860.00
Embu	207	24	21,448,626.00
Totals	**672**	**178**	**149,357,776.00**

Committee Observation and Finding

The responsible public trustees in five (5) regional officers failed to provide for audit files for death gratuities under their custody contrary to the provisions of Section 9(1e) which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

Committee Recommendation

The Attorney General should reprimand responsible public trustees in five (5) regional officers who failed to provide for audit files for death gratuities under their custody contrary to the provisions of Section 9(1e) which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities

54.4 Unsupported Payments

54.4.1 The estates/trusts files in Nyeri and Embu regional offices showed that gratuities totaling Kshs. 12,979,655.00 were disbursed without copies of Kenya Gazette as required. It is, therefore, not clear whether the estates/trusts indicated below were advertised in the Kenya Gazette.

Station	Pension no	Amount Kshs.
Nyeri	APN/GC0000248813	480,960.00
	APN/PC0000245421	562,155.00
	APN/PC0000249018	912,494.00
	APN/PC0000248288	1,199,142.00
	APN/GC0000245080	670,963.00
	APN/PC0000246450	1,066,884.00
	APN/PC0000248663	1,226,551.00
	APN/PC0000246412	1,334,340.00
	APN/PC0000248483	1,102,640.00

Sub-Total		8,556,129.00
EMBU	APN/PC0000245320	700,369.00
	APN/PC0000241687	512,665.00
	APN/GC0000246980	420,192.00
	APN/PC0000244470	363,360.00
	APN/PC0000243635	1,118,324.00
	APN/PC0000247550	1,308,615.00
Sub-Total		4,423,525.00
Grand Total		**12,979,654.00**

54.4.2 The disbursements of death gratuities by the pensions department are required to be accompanied by notification to show the beneficiaries and, or next of kin. The disbursements to Embu Office for twelve (12) cases with a total amount of Kshs.11, 177,224.40 were made without the notifications. The Public Trustee has, therefore, not been able to pay the beneficiaries. Further, these estates have neither been gazetted nor advertised in the media and notice boards. The details of the gratuities are indicated was below:

Pension No.	**Amount Kshs.**
APN/PC0000243791	2,469,700.10
APN/GC0000242250	593,997.50
APN/PC0000249515	486,936.00
APN/PC0000244827	432,960.00
APN/PC0000242174	1,713,849.00
APN/PC0000239493	455,007.00
APN/PC0000248080	749,100.00
APN/PC0000239445	1,252,995.00
APN/PC0000143248	77,051.70
APN/PC0000249041	1,852,594.10
APN/PC0000243013	658,491.00
APN/PC0000243923	434,543.00
	11,177,224.40

Submission by the Accounting Officer

The Accounting Officer stated that the current policy is that the National Treasury processes payments for dead pensioners through Public Trustee. The Public Trustee office is under the office of the State Law Office which is subjected to audit like any other public accounting unit.

Any payment to Public Trustee is acknowledged with a receipt. Therefore, the issues raised by the Auditor should have been addressed to the office of the Public Trustee. The National Treasury has written vide Ref EPN/167/025/ Vol X ii dated 22nd August 2016 and Ref. EPN/167/025 Vol.xiii (6) dated 26th March 2018 requesting the State Law Office to respond to the issues raised by the Auditor. The consultations between two offices will be held on the way forward.

Committee Observation and Finding

The Public Trustee office is under the office of the State Law Office which is subjected to audit like any other public accounting unit.

Committee Recommendation

The Auditor-General should raise these pertinent audit matters to the Accounting Officer responsible for public trustee matters.

ASIAN OFFICERS FAMILY PENSION SCHEME FUND

Basis for Qualified Opinion

55. Investment Held in Insolvent Cereals and Sugar Finance Corporation

The statement of financial assets and liabilities as at 30 June 2015 reflects a receivables' balance of Kshs. 263,221,691.00 which includes an amount of Kshs. 15,200,000.00 relating to cash deposited in the Cereals and Sugar Finance Corporation. The Corporation is technically insolvent and according to available information, the Government has approved its winding up, with a further requirement that the National Treasury takes over its assets and liabilities. The recoverability of the amount of Kshs.15, 200,000.00 is, therefore, doubtful.

Submission by the Accounting Officer

The Accounting Officer stated that the statement of financial assets and liabilities reflects the receivables balance of Kshs. 263,221,691.00 which includes an amount of Kshs. 15,200,000 relating to deposit in Cereals and Sugar Finance Corporation, which is technically insolvent and in the process of being wound up. Draft financial statements for Cereals and Sugar Finance Corporation (under liquidation) have been prepared and submitted for audit review.

The interim report as per September, 2015 of the winding up committee of Dormant Funds has been availed for audit review. The recoverability of the amount will be determined when the winding up process is finalized.

Committee Observation and Finding

The Committee observed that the issue was among those being addressed by the Task Force on Old Outstanding balances. The issue remains unresolved awaiting response from the Central Bank of Kenya and completion of work by the Task Force.

Committee Recommendation

The Principal Secretary National Treasury should ensure that Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

56. Over-statement of Dividend Income

The statement of receipts and payments for the year ended 30 June 2015 reflects dividend income of Kshs.136, 600,818.00. The amount includes two exchequer issues from the National Treasury of Kshs. 50,000,000.00 and Kshs.76, 026,408.65, reversed investment provision of Kshs.1, 982,243.50 and pension payment of Kshs.118, 822.65 which have wrongly been treated as dividend income. The dividend income is, therefore, overstated by an amount of Kshs.128, 127,474.80.

Submission by the Accounting Officer

The Accounting Officer stated that the statement of receipts and payments reflect a dividend income of Kshs.136, 600,818. This includes receipts during the year from exchequer that had previously been a refund of dividend from an exchequer that had been wrongly credited to the exchequer instead of the Fund account. The anomaly has since been corrected through journal vouchers No. 000035 and 000045 for Kshs. 50,000,000.00 and Kshs. 76,026,408.65 respectively during the financial year 2015/2016 leaving a balance of Kshs 2,101,066.65 correctly captured in the item.

Committee Observation and Finding

The dividend income for Asian Officers Family Pension Scheme Fund for the period was overstated by an amount of Kshs.128, 127,474.80.

Committee Recommendation

The Accounting Officer should ensure that the 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.

57. Un-explained Exchequer Issues to the Fund

The National Treasury issued two exchequers of Kshs.50, 000,000.00 and Kshs.76, 026,408.65 to the Asian Officers Family Pension Scheme Fund during the period under review. However, no documentary evidence has been produced to confirm that the National Treasury owed the Fund any money at the beginning of or during the financial year 2014/2015. The exchequer amount was, in the circumstances irregularly transferred to the fund.

Sumission by the Accounting Officer

The two exchequer issues of Kshs. 50,000,000 and Kshs. 76,026,408.65 is dividend income that was erroneously paid in the exchequer account instead of fund account as explained in 56 above. To refund the money a provision of Kshs.126, 026,409 was provided in the budget of 2014/15 to cater for the refund. Therefore, the two receipts from the National Treasury are refunds to the fund and not the exchequer issue to the Fund.

Committee Observation and Finding

The Accounting Officer failed to ensure that the correct financial and accounting records were 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.

Committee Recommendation

The Accounting Officer should ensure that the 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.

58. Irregular Pension Payments

The Pension Department made payments totaling Kshs.519, 800.00 from 2007 to June 2015 in respect of two deceased beneficiaries. The families of the two beneficiaries through forwarding letters dated 22 August 2007 and 21 January 2008 provided death certificates informing the Pensions Department of the demise of the beneficiaries on 16 August 2007 and 28 December 2007. The Department, however, continued to make payments to the two deceased beneficiaries despite receiving the notifications on 20 September 2007 and 1 February 2008, respectively. The payment of the pension to nonexistent beneficiaries has led to loss of Government funds totaling Kshs.519, 800.00.

Submission by the Accounting Officer

The Accounting Officer stated that the two deceased beneficiaries remained in the agency payroll up to January, 2016 and had been paid Kshs.519, 800.00. The money's paid was returned by the bank up to the tune of Kshs.418, 710 by August, 2017 leaving a balance of Kshs.101, 090. The National Treasury has written to the bank requesting them to return the balance.

Committee Observation and Finding

The Pension Department irregularly made payments totaling Kshs.519, 800.00 from 2007 to June 2015 in respect of two deceased beneficiaries. The money's paid was returned by

the bank up to the tune of Kshs.418, 710 by August, 2017 leaving a balance of Kshs. 101,090.

Committee Recommendation

i. **The erstwhile Director of Pensions Department be held liable for making irregular payment of Kshs.519, 800.00 from 2007 to June 2015 in respect of two deceased beneficiaries.**

ii. **The Accounting Officer should ensure that the outstanding balance of Kshs. 101,090 is fully recovered and evidence submitted for audit review.**

59. Failure to Produce Records

The statement of receipts and payments reflects an expenditure of Kshs.1, 461,629.00 being pension paid during the period under review. It has, therefore, not been possible to confirm the accuracy and authenticity of the amount paid to the six beneficiaries.

Submission by the Accounting Officer

The Accounting Officer in stated that the payment of Kshs.216, 000 was made to six beneficiaries of former East African Community and by the time of audit the files were not produced for verification. The auditor was provided with 34 files leaving a balance of two files. It has been a challenge to trace the two files due to past relocations of the department. However, efforts are being made to avail the remaining two files for audit.

Committee Observation and Finding

Payment of Kshs.216, 000 was made to six beneficiaries of former East African Community and by the time of audit the files were not produced for verification contrary to the provisions of Section 9(1e) which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

Committee Recommendation

The Accounting Officer reprimand the Director of Pensions for failing to provide documents supporting the payment of Kshs.216, 000 which was made to six beneficiaries of former East African Community. This action is contrary to the provisions of Section 9(1e) of the Public Audit Act No. 34 of 2015 which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities

60. Understatement of the Investment Balance

The statement of financial assets and liabilities shows a balance of Kshs.34, 238,980.00 under investment account. The balance is understated by an amount of Kshs.2, 939,850.00 being bonus share issued in 2012 but not recorded in the value of the investment account.

Submission by the Accounting Officer

The Accounting Officer stated that the bonus share issued in 2012 by Kenya Power and Lighting Company (KPLC) valued at Khs.2, 939,850.00 have not been recorded in the investment account due to the fact that the National Treasury had not received the bonus share notice. The notice has since been received and the necessary entries recorded in our books of accounts.

Committee Observation and Finding

The bonus share issued in 2012 by Kenya Power and Lighting Company (KPLC) valued at Khs.2, 939,850.00 have not been recorded in the investment account due to the fact that the National Treasury had not received the bonus share notice. Members observed that all the required documents had been provided pending verification by the Auditor General.

61. Un-supported Balances

The statement of financial assets and liabilities under receivables includes an amount of Kshs.248, 021,691.00 being cash owed by Joint Consolidated Fund. The balance has, however, not been supported by deposit certificates.

Further, the statement reflects a capital account balance and members contributions of Kshs.119, 356,085.00 and Kshs.37, 680,778.00 respectively, which have not been supported by analyses. The accuracy of these balances could not therefore, be confirmed.

Submission by the Accounting Officer

The Accounting Officer stated that the statement of financial assets and liabilities under receivables include amount of Kshs.248, 021,691.00 being cash owed to Joint Consolidated Fund. The fund represented investments by former employees of East African Community which were taken over by Crown Agency upon collapse of the Community and subsequently surrendered to Central Bank of Kenya. This being old balances which were kept manually it has been a challenge to trace the deposit certificates.

The National Treasury has since refunded Kshs. 120,000,000.00 vide receipt No. 000685 in the financial year 2015/2016 and the two journals No. 000035 and 000046 for Kshs. 50,000,000.00 and Kshs. 76,026,408,65 respectively have been journalized from the dividend account to the investment account to correct the earlier anomaly. The balance of Kshs.1, 995,282.40 was cleared during the financial year 2016/2017. The statement also reflects a member's contribution whose analysis was not availed at the time of audit but has since been availed. The total contribution per member can be verified from the member's registers which have also been presented for audit review.

The issue should be retained to wait for evidence of transfer from Crown Agency to CBK - London - CBK Kenya.

Committee Observations and Findings

Members observed that the evidence of transfers of the fund from Crown Agency to CBK - London - CBK Kenya had not been provided. The issue should be retained to wait for evidence of transfer from Crown Agency to CBK -London - CBK Kenya.

European Widows and Orphans Pension Scheme Fund

Basis for Qualified Opinion

62. Investment Held In Insolvent Cereals and Sugar Finance Corporation

As previously reported, the statement of assets and liabilities reflects receivables' balance of Kshs. 16,900,000.00 relating to cash investment held in the Cereals and Sugar Finance Corporation. The Corporation is technically insolvent and the Government has approved its winding up. Consequently, the recoverability of Kshs.16, 900,000.00 is doubtful.

Submission by the Accounting Officer

The Accounting Officer in stated that the statement of assets and liabilities reflects a receivable balance of Kshs.16, 900,000.00 relating to cash deposit held in the Cereals and Sugar Finance Corporation (CSFC), which is technically insolvent. Draft financial statements for Cereals and Sugar Finance Corporation (under liquidation) has been submitted for audit review. The liquidation and winding up process of the corporation is on-going and the recoverability of the amount will be determined once the process is over.

The query should be retained to await the conclusion of handling Task Force

Committee Observations and Findings

i. **The Committee observed that the issue was among those being addressed by the Task Force on Old Outstanding balances.**
ii. **The query remains unresolved and awaits conclusion of the taskforce on old outstanding balances.**

Committee Recommendation

The Principal Secretary National Treasury should ensure that the Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

63. Failure to Invest Proceeds from Redeemed Stock

Treasury holds in its Deposits Account No. 4-867-102-0021 cash proceeds from the redemption of 11% Kenya Stock 2000 totaling Kshs.9, 000,000.00. The Stocks were redeemed in July 2001 and the proceeds were expected to be reinvested immediately but are still being held in Deposit account to date. Failure to re-invest the funds for the last fourteen years has denied the Fund income that would finance the payment of pensions due to its beneficiaries.

Submission by the Accounting Officer

The Accounting Officer stated that the National Treasury holds in its Deposit Account No.4-867-1020021 cash proceeds from the redemption of 11% Kenya Stock 2000 totaling Kshs.9, 000,000.00 without investing for fourteen years. The proceeds are held in the deposit account of National Treasury. The National Treasury cannot invest in either treasury bills or bonds and therefore the funds will be transferred to the Fund.

Committee Observations and Findings

i. **The Committee observed that all required documents proving availability of the funds in the deposit accounting awaiting transfer to the Redeemed Stock Fund were provided and verified.**
ii. **The committee marked the matter as resolved.**

64. Over-statement of Dividend Income

The statement of receipts and payments reflects dividend income of Kshs.56, 921,133.00, which includes dividend earned during the year of Kshs.6, 914,743.00, exchequer issue from Treasury of Kshs.50, 000,000.00 and one month pension not paid of Kshs.6, 390.00. The exchequer issue and pension not paid are not part of dividend income. The dividend income is therefore overstated by an amount of Kshs.50, 006,390.00.

Submission by the Accounting Officer

The Accounting Officer stated that the statement of receipts and payments reflects a dividend income of Kshs.56, 921,133. This includes dividend earned during the year of Kshs6, 914,743, exchequer issued from the National Treasury of Kshs.50, 000,000.00 and one-month pension not paid of Kshs.6, 390.00. The Kshs.50, 000,000 was a fund dividend income that was wrongly credited to the exchequer instead of the Fund account. The anomaly has since been corrected through journal entries during the financial year 2015/2016. Further a journal entry was made to correct the entry of Kshs 6,390.

Committee Observations and Findings

The committee marked the matter as resolved.

65. Un-explained Exchequer Issue to the Fund

The National Treasury issued an exchequer of Kshs.50, 000,000.00 to the European Widows and Orphans Pension Scheme Fund during the period under review. According to records available, the fund was not owed any amount by Treasury as at 1 July 2014 or during the year 2014/2015. The reason for issuing the exchequer to the Fund has not been explained.

Submission by the Accounting Officer

The Accounting Officer stated that the National Treasury made a payment of Kshs.50, 000,000.00 to the European Widows Family Pension Fund during the period under review being a refund to the fund of the dividends from Kenya Power and Lighting Company and East African Breweries Limited which was previously paid to the Exchequer, instead of the Fund.

Committee Observation and Findings

The committee marked the matter as resolved.

THE PROVIDENT FUND

Basis for Adverse Opinion

66. Statement of Receipts and Payments

66.1 The statement of receipts and payments reflects a net off amount of Kshs.45, 321,709.65 against total receipts which have been referred to as "dividend receivable for 2013/2014". The amount actually relates to 2012/2013 and was included in other receivables and dividend income balances of Kshs. 109,063,893.00 and Kshs. 146,187,997.00, respectively reported in that year. The amount of Kshs.45, 321,709.65 has therefore been erroneously netted off against receipts for the year 2014/2015.

Submission by the Accounting Officer

The Accounting Officer stated that the on paragraph 66.1 The Statement of Receipts and Payments reflects a net off amount of Kshs.45, 321,709.65. The amount of Kshs.45, 321,709.65 was part of Kshs 109,063,893 that the Fund was expected to receive during financial year 2012/2013 as illustrated below:

Dividend from National Treasury (DGIPE)	104,270,011
Joint Consolidated Fund (JCF)	997,656
Cereals and Sugar F. Corporation	3,796,226
Total	**109,063,893**

The actual receipts for 2012/2013 were Kshs.58, 948,301.90 leaving a balance of Kshs.45, 321,709.65. The balance of Kshs.45, 321,709.65 was carried forward to 2013/2014 financial year. During the financial year 2013/2014 no dividends were declared therefore the same balance of Kshs.45, 321,709.65 was carried to 2014/2015 financial year. During the financial year 2014/2015 Kenya Power and Lighting Company and East African Breweries Limited paid dividends directly to the National Treasury exchequer account which the National Treasury refunded to the Fund by making a payment of Kshs.50, 000,000. This payment of Kshs.50, 000,000 cleared the balance of receivables of Kshs.45, 321,709.65. The differences of Kshs.4, 678,290.35 were receipts for 2014/2015 financial year.

Committee Observation and Findings

The committee marked the matter as resolved.

66.2 The dividend income of Kshs. 101,831,345 reflected in the statement of receipt and payments includes a refund of Kshs. 50,000,000.00 out of which Kshs.45, 321,709.00 relates to dividends received during the prior years. The difference of Kshs 4,678,290.35 was part of the dividend receipts for 2014/2015 financial year. The Kshs.3, 226 was a deposit made directly into the Consolidated Fund Account. A refund of Kshs 3,226 from the Consolidated Fund account to the Provident Fund is in process.

Submission by the Accounting Officer

The Accounting Officer stated that the query should be retained to await conclusion of handling taskforce.

Committee Recommendation

The Principal Secretary National Treasury should ensure that Taskforce on old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

67. Missing Investment Certificates

Note 8.2 to the financial statements reflects investment of Kshs. 45,860,478.00 in shares representing the gross book value of ordinary share investments in two publicly quoted companies. Out of this balance, a sum of Kshs.14, 807,299.00 represents 7,540,140 ordinary shares held in the East African Breweries Company Limited. However, only share certificates for 1,960,118 shares valued at Kshs.9, 547,660.00 were presented for audit. Therefore, it has not been possible to confirm whether the balance of 5,580,022 shares valued at Kshs.5, 259,639.00 exist. In view of these discrepancies, it has not been possible to confirm the completeness, value and accuracy of the net investment balance of Kshs.45, 378,431.00 reflected in the statement of financial assets and liabilities.

Submission by the Accounting Officer

The Accounting Officer stated that the financial statements under Note 8.2 reflect investment in 7,540,140 ordinary shares valued at Kshs.45, 860,478. 00. As at the time of audit the share certificates that were availed for audit were for 1,960,118 shares valued at Kshs.9, 547,660. The National Treasury has since sought and obtained confirmation for the 7,540,140 shares from the East African Breweries Company Limited.

Committee Observations and Findings

i. **The Committee observed that the National Treasury has since sought and obtained confirmation for the 7,540,140 shares from the East African Breweries Company Limited.**
ii. **The committee marked the matter as resolved.**

68. Dividend Income not accounted for in the Fund Account

In the report for 2013/2014 it was noted that dividend income from investments amounting to Kshs.11, 310,210.00 was received from East African Breweries Limited and paid to the National

Treasury instead of the Provident Fund Account. The amount had not been accounted for as a receivable in the Fund's books of account or paid to the Provident Fund as at 30 June 2015.

Submission by the Accounting Officer

The Accounting Officer stated that the Kshs.11, 310,210.00 was not recognized as a receivable in the fund account for 2014/2015 Financial Year since the notification had not been received. The dividend of was paid directly to the exchequer account instead of the Fund account by the close of financial year. This was due to the fact that the investments in EABL had been made in the name of the Permanent Secretary to The National Treasury and the notification had not been received hence any dividends made thereon had to be paid to the Exchequer Account. However, the full amount has been refunded by the National Treasury.

Committee Observations and Findings

i. **The committee observed that the dividend income from investments amounting to Kshs.11, 310,210.00 was received from East African Breweries Limited and paid to the National Treasury instead of the Provident Fund Account. This was due to the fact that the investments in EABL had been made in the name of the Permanent Secretary to the National Treasury and the notification had not been received hence any dividends made thereon had to be paid to the Exchequer Account.**

ii. **The committee marked the matter as reolved.**

Committee Recommendation

Accounting officers must at all times ensure that all documentation relating to financial statements are submitted to the Auditor General pursuant to the provisions of Section 68 (2) (l) of the Public Finance Management Act, 2012.

69. Cash on Deposit – Joint Consolidated Fund (JCF)

Other receivables balance of Kshs.4, 793,882.00 reflected in the statement of financial assets and liabilities includes Cash on Deposit – Joint Consolidated Fund (JCF) balance of Kshs.997, 655.80. However, certificates in support of the balance were not submitted for audit review and as a result, it has not been possible to verify the existence and valuation of the deposits or the organizations in which the deposits were held.

Submission by the Accounting Officer

The Accounting Officer stated that the deposit certificates in respect of cash on deposit (JCF) totaling Kshs.997, 655.80 were not provided for Audit review. This investment was operated by the defunct East African community from savings and contributions from Provident Fund, Asian Officers, European Widows and Orphans and Asian Officers Family Pension Fund. When the East African Community broke up in 1977, these investments were taken by the Kenyan Government and put under management of Crown Agents Bank in the U.K. No certificate had been issued in respect of this investment by the time the East African Community broke up in

1977. It is important to note that all funds in JCF were released from Crown Agent Bank in U.K. to CBK account in the Bank of England. A budget provision was made in 2015/2016 financial year to pay back the Cash on Deposit –JCF from the Exchequer and the amount has already been cleared vide receipt voucher 000686 dated 14th April, 2016.

Committee Observations and Findings

i. **The statement of financial assets and liabilities included Cash on Deposit-Joint Consolidated Fund (JCF) balance of Kshs.997, 655.80. However, certificates in support of the balance were not submitted for audit review.**
ii. **A budget provision was made in 2015/2016 financial year to pay back the Cash on Deposit –JCF from the Exchequer and the amount has already been cleared vide receipt voucher 000686 dated 14th April, 2016.**
iii. **The committee marked the atter as resolved.**

70. Cash Deposit – Cereals and Sugar Finance Corporation

The other receivables balance also includes a cash deposit of Kshs.3, 796,226.00 held in the insolvent Cereals and Sugar Corporation. As reported previously, the Cabinet gave approval on 13 September 2007 for the winding-up of the Corporation and directed the National Treasury to take over its assets and liabilities. No information has been provided regarding the progress attained in winding up of the Corporation as at 30 June 2015. In the circumstances, realization of the amount of Kshs.3, 976,226.00 is doubtful.

Submission by the Accounting Officer

The Accounting Officer stated thata taskforce for winding up dormant funds was constituted. The task force produced an Interim report as at September 2015. The draft financial statements for the Corporation have been prepared and forwarded for audit review. The position of this deposit will be determined upon the completion of winding up process by the taskforce on dormant funds.

Committee Observation and Finding

The Committee observed that the issue was among those being addressed by the Task Force for winding up dormant Funds. The position of this deposit will be determined upon the completion of winding up process by the taskforce on dormant funds.

Committee Recommendation

The Principal Secretary for the National Treasury Taskforce old balances should complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

71. Un analyzed Balance

The statement of financial assets and liabilities also reflects other pending payables' balance of Kshs.9, 715,111.00 made up of Kshs.9, 622,726.00 and Kshs.92, 385.00 relating to surplus cash remitted by Government Departments and interest due from National Government entities respectively. These balances were brought forward from the previous years but no analysis was done.

The National Treasury explained that documents containing details of the balances were lost in the 1970's and that during the year under review, it constituted a taskforce to reconcile the balances. In the absence of analysis, however, it has not been possible to confirm the accuracy, validity and completeness of these balances.

Submission by the Accounting Officer

The Accounting Officer in stated that the statement of Assets and Liabilities reflects pending payables balances of Kshs.9, 715,111.00 under the following items: -

Particulars	**Amounts**
Surplus cash remitted by Departments	9,622,726.00
Interest due from the Government	92,385.00
	9,715,111.00

These balances were brought forward from previous years and it has been a challenge to analyze them further since they are historical in nature. The National Treasury constituted a taskforce on Old Balances to assist ministries/departments and agencies to clear the outstanding old balances in their books of accounts. We are awaiting the recommendations of the taskforce on the way forward.

Committee Observation and Finding

The Committee observed that the issue was among those being addressed by the Task Force on Old Outstanding balances. The issue remains unresolved awaiting completion of work by the Task Force.

Committee Recommendation

The Principal Secretary for the National Treasury ensure that the Taskforce complete its work within nine months from August 2018 and submit its report to the Auditor General not later than end of April 2019.

72. Differences in Comparative Balances

In the report for 2013/2014 it was noted that the comparative balances for 2012/2013 reflected in the Fund's financial statements for the year ended 30 June 2014 differed with the balances reflected in the audited financial statements for the year 2012/2013 as follows:

Item	Comparative Balance 2012/2013 Kshs.	Actual Statement 2012/2013 Kshs.	Difference Kshs.
Dividend receivable From DGIPE	104,270,111	57,144,536.30	47,125,574.70
Accumulated Surplus	460,564,771	413,329,295.75	47,235,475.25
Miscellaneous Receipts	146,187,997	99,062,552.30	47,125,444.70

A review of the financial statements for 2014/2015 revealed that like in 2013/2014 no disclosure has been made in the notes to the financial statements regarding re-statement of these prior period balances including the reasons for the restatement as required under International Public Sector Accounting Standard No.3 on "Accounting Policies, Changes in Accounting Estimates and Errors''.

Submission by the Accounting Officer

The Accounting Officer in stated that the by the time of Audit, the comparative balances for the financial year 2012/2013 reflected in the financial statement for the year ended 30th June 2014 differed with balances reflected in the Audited Financial Statement. However, the financial statements were amended and submitted for Audit review.

Committee Observation and Finding

No disclosure has been made in the notes to the financial statements regarding re-statement of these prior period balances including the reasons for the restatement as required under International Public Sector Accounting Standard No.3 on "Accounting Policies, Changes in Accounting Estimates and Errors''.

Committee Recommendation

The Accounting Officer should prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time in compliance with the provisions of Section 81(3) of the PFM Act 2012 and that the correct 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(2) (k) of the PFM Act 2012.

CONSOLIDATED FUND SERVICES - SALARIES, ALLOWANCES AND MISCELLANEOUS SERVICES AND GUARANTEED DEBT

Basis for Adverse Opinion

73. Accounting Policies

Contrary to the requirements of International Public Sector Accounting Standards financial reporting under the cash basis of accounting, the accounting policies adopted by the National Treasury in preparing and presenting these financial statements have not been disclosed.

Submission by the Accounting Officer

The Accounting Officer stated that the financial statements initially presented for Audit review had not disclosed the Accounting policies adopted by the National Treasury. This was an omission and the Accounts were amended to incorporate the significant Accounting policies adopted and were forwarded for audit review.

Committee Observation and Finding

The accounting policies adopted by the National Treasury in preparing and presenting the financial statements were not disclosed to the Auditor General.

Committee Recommendation

The Accounting Officer should prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time in compliance with the provisions of Section 81(3) of the PFM Act 2012 and that the correct 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(2) (k) of the PFM Act 2012.

74. Failure to provide a Trial Balance

The National Treasury did not provide a trial balance for the Consolidated Fund Services-Salaries, Allowances and Miscellaneous Services and Guaranteed Debts as at 30 June 2015. It is, therefore, not clear how the balances in the financial statements were drawn in the absence of a trial balance.

Submission by the Accounting Officer

The Accounting Officer stated that by the time of audit a ledger was provided without a trial balance but since then a trial balance for Consolidated Fund Services, Salaries, Allowances and Miscellaneous Services was provided for audit review.

Committee Observations and Findings

i. **The National Treasury did not provide a trial balance for the Consolidated Fund Services-Salaries, Allowances and Miscellaneous Services and Guaranteed Debts as at 30th June 2015 contrary to the provisions of Section 80(1) which states that at the** end of each financial year, the National Treasury shall prepare for thenational government, clear and comprehensible annual financial statements thatconsolidate the financial statements prepared by all national government entities,in accordance with formats prescribed by the Accounting Standards Board.**

ii. **The Committee observed that confirmation receipts had been provided and verified.**

iii. **The committee mrked the matter as resolved.**

Committee Recommendation

The Accounting Officer should prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time in compliance with the provisions of Sections 68 (2) (k), 80 and 81(3) of the PFM Act 2012 and that the 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.

75. Un-supported Balances

75.1 The statement of receipts and payments reflects compensation of employees in form of salaries and allowances of Kshs.2, 418,352,317.00 while the ledger shows payments totaling Kshs.2, 405,901,971.00 for the same item. The difference of Kshs.12, 450,346.00 between the two sets of records, which should ordinarily agree, has not been established.

Submission by the Accounting Officer

The Accounting Officer stated that this difference of Kshs.12, 450,346 relates to payments made off-payroll which had not been posted to the ledger. The same has since been posted, financial statements amended and forwarded for audit review.

Committee Observations and Findings

i. **The Committee observed that the bank documents and the amended financial statements had been submitted to the Auditor General.**

ii. **The committee marked the matter as resolved.**

75.2 The payroll summaries for the twelve months from July 2014 to June 2015 reflect salaries and allowances expenditure totaling Kshs.2,316,996,535.90, which differs with the amount of Kshs.2,418,352,317.00 reflected in the statement of receipts and payments in respect of compensation of employees. The resulting difference of Kshs.101, 355,781.10 has similarly not been ascertained.

Submission by the Accounting Officer

The Accounting Officer in stated that the difference of Kshs.101, 355,781.10 is as a result of payments made outside the pay roll.

Committee Observations and Findings

i. **The Committee with advice of the Auditor General observed that the bank documents and the amended financial statements had been submitted to the Auditor General.**
ii. **The committee marked the matter as resolved.**

76. Payments under Guaranteed Loans Act

The statement of receipts and payments reflects expenditure of Kshs.115, 667,631.00 and Kshs.899, 285,640.00 in respect of loan interest and redemption respectively, incurred during the financial year 2014/2015, under Guaranteed Loans Act. The loans were guaranteed by the Government of Kenya on behalf of two parastatals and a Local Authority and paid during the year under review as follows: -

Organization	Principal Amount Kshs.	Interest Amount Kshs.	Total Kshs.
Kenya Broadcasting Corporation	593,564,152.00	69,952,990.30	663,517,142.30
Tana & Athi River Development Authority	227,644,737.85	45,073,572.15	272,718,310.00
Nairobi City Council	78,076,750.00	637,918.50	78,714,668.50
Transmission Charges	-	3,150.00	3,150.00
Total	**899,285,639.85**	**115,664,480.95**	**1,014,950,120.80**

As similarly reported in 2013/2014, the terms and conditions under which the Government took over these loans have not been made available for audit review, and as a result, it has not been possible to establish whether or not the defaulting institutions were required to reimburse the Government the principal and interest it paid on their behalf.
It has not been possible in the circumstances to ascertain whether or not the repayments had complied with the terms and conditions of the take-over.

Submission by the Accounting Officer

The Accounting Officer in stated that the Government incurred expenditure amounting to Kshs.15, 664,481.10, Kshs.899, 285,639.80 and Kshs. 3,150.00 in respect of guaranteed loans' interest, redemption and loan management expenses respectively. However, the Guaranteed Loans Act, 2011 sighted in the report was repealed through The Public Finance Management Act, 2012 and is no longer in use.

The money which became payable on guarantee was paid by the Government as provided for under Section 60 of the Public Finance Management Act, 2012. The Government made the payments as a guarantor following a default by the borrowers. The institutions were faced with financial constraints and could not meet their loan service obligations. The organizations requested the National Treasury to settle the loan obligations on their behalf as per copies of correspondences attached. The National Treasury issued a circular. No. 9 to all CEOs regarding payment of guaranteed loans.

Committee Observations and Findings

i. **The Committee observed that copies of correspondences and other relevant documents had been provided and verified.**
ii. **The committee marked the matter as resolved.**

77. Prior Year Adjustments

The statement of financial position as at 30 June 2015 reflects an amount of Kshs.55, 241,558.25, which is referred to as prior year adjustments. The National Treasury has not explained or provided details of the said adjustments. Consequently, the accuracy of the balances reflected in the statement of financial position could not be ascertained.

Submission by the Accounting Officer

The Accounting Officer stated that the statement initially submitted for audit review reflected prior year adjustment of Kshs.55, 241,558.25. However, the statement was amended to reflect cash book balances of Kshs.172, 450,397.35 instead of bank balances which as a result cleared the prior year adjustments.

Committee Observations and Findings

i. **The Committee observed that the bank documents and the amended financial statements had been submitted to the Auditor General.**
ii. **The committee marked the matter as resolved.**

78. Unspent Appropriation/Cash Balance

The statement of financial position reflects a bank balance under the comparative balances for the financial year 2013/2014 of Kshs.397, 382,932.20. The balance was carried forward to the financial year 2014/2015 as shown in the statement of financial position as at 30 June 2015. The unspent appropriation in 2013/2014 ought to have been paid back to the National Exchequer Account as required under Section 45 of the Public Finance Management Act, 2012 but it was not repaid.

Submission by the Accounting Officer

The Accounting Officer stated that at the close of every financial year the budget for that financial year lapses and un-spent exchequer is expected to be surrendered to the Exchequer Account. The un-spent balance of Kshs.397, 382,932.20 for 2013/14 financial year was used to finance part of the budget of 2014/15 financial year and the same was recovered from the exchequer issues of financial year 2014/15.

Committee Observations and Findings

i. **The Committee observed that the bank documents and the amended financial statements had been submitted to the Auditor General.**

ii. **The committee marked the matter as resolved.**

79. Omitted Expenditure and Receipts

79.1 The following receipts and expenditure reflected in the ledger for June 2015 have not been captured in the financial statements as detailed: -

Expenditure

520-004-8820-6760102 Kshs.22, 022

520-129-8820-6760102 Kshs.80, 195

Receipts

520-004-0000-6740102 Kshs.5, 409,260.90

520-004-0000-6780101 Kshs.2, 167,730.70

The National Treasury has also not provided the item descriptions for these accounts and as such, it has not been possible to establish what they relate to.

Committee Observations and Findings

i. **The Committee with advice of the Auditor General observed that the bank documents and the amended financial statements had been submitted to the Auditor General.**

ii. **The committee marked the matter as resolved.**

79.2 In addition, the ledger under Head-983 Item-6780108-loans management charges reflects an amount of Kshs.11, 980,333.50 as at 30 June 2015. The item has, however, been omitted from the financial statements.

Submission by the Accounting Officer

The Accounting Officer stated that the expenditure of Kshs.102, 217 was erroneously captured in the ledger and has been reversed. Both ledger and financial statement are in agreement. The item description for the above accounts has been provided to the auditor for review.

Committee Observations and Findings

i. **The Committee observed that the bank documents and the amended financial statements had been submitted to the Auditor General.**

ii. **The committee marked the matter as resolved.**

80. Variances between Ledger and the Payroll

The ledgers and the payroll for salaries and allowances for 2014/2015 in respect of the Judiciary, Kenya National Commission on Human Rights and National Cohesion and Integration Commission show variances as detailed: -

Institution	Ledger Amount as at 30.06.2015	Payroll Amount as at30.06.2015	Variance Kshs
1. Judiciary	1,311,299,506.00	1,597,774,307.00	286,474,801.00
2. Kenya National Commission on Human Right	147,026,916.00	111,307,599.00	35,719,317.00
3. National Cohesion and Integration Commission	16,773,708.00	9,259,030.00	7,514,678.00

I have not been able to establish the cause of the differences.

Submission by the Accounting Officer

The Accounting Officer stated that the variances were due to over/under casts in the ledger. The accounts were later amended. The ledger and the payroll figures are in agreement and have since been availed for audit review.

Committee Observations and Findings

i. **The Committee observed that copies of correspondences and other relevant documents had been provided and verified.**

ii. **The committee marked the matter as resolved.**

81. Unexplained Funding

The statement of receipts and payments shows total receipts of Kshs. 3,150,000,000.00 and expenditure totaling Kshs. 3,433,308,738.00, resulting in a deficit of Kshs. 283,308,738.00 for the year ended 30 June 2015. The source of funding for payments totaling Kshs.283, 308,738.00 during the year has not been explained.

Submission by the Accounting Officer

The Accounting Officer in stated that the statements of receipts and payments shows total receipts of Kshs. 3,150,000,000.00 and expenditure totaling Kshs. 3,433,308,738.00 resulting to a deficit of Kshs. 283,308,738.00 for the year ended 30th June 2015. The deficit of Kshs.281, 646,727.85 and not Kshs.283, 308,738.00 was financed from the exchequer amounting to Kshs.397, 382,932.20 brought forward from 2013/14 financial year.

Committee Observations and Findings

i. **The Committee observed that the bank documents and the amended financial statements had been submitted to the Auditor General.**

ii. **The committee marked the matter as resolved**.

82. Bank Balances

The Bank reconciliation statement as at 30 June 2015 reflects cash book balance of Kshs.96, 267,835.60 which differs with the balance of Kshs.58, 832.636.15 shown in the statement of financial position by Kshs.37, 435,199.45.

Further, the supporting schedules to the reconciliation statement show figures only without description of reconciling items. It is, therefore, not clear what the reconciling figures represent.

The reconciliation also reflects a cash book adjustment of Kshs.754, 000,000.00 dated 16 May 2014 which is referred to as overstated receipts. The cash book was debited on 13 May 2014 with an amount of Kshs.837, 748,634.50 instead of Kshs.83, 748,634.50. The adjustment was, however, reversed on 29 June 2015 and no explanation has been given for the transaction and why the error was reinstated. In the circumstances, the accuracy of the cash balance in the statement of the financial position could not be confirmed.

Submission by the Accounting Officer

The Accounting Officer stated that the bank reconciliation statement as at 30th June, 2015 for new account was revised to reflect the adjusted cash book balance of Kshs. 172,450,397.35 which was reconciled with the bank balance of Kshs. 58,832,636.15.

The supporting schedules to the bank reconciliation statement include full details of all the items there in. On 16th May, 2014, the old cash book balance brought down was recorded as Kshs.837, 748,634.50 instead of Kshs.83, 748,634.50. This resulted in an over-cast of Kshs.754, 000,000.00 as observed. However, the over-cast was reversed on 10th April, 2015 in the new cash book instead of the old cash book where it occurred. This entry was therefore reversed in new cash book on 29th June, 2015 and was submitted for Audit review.

Committee Observations and Findings

i. **The Committee with advice of the Auditor General observed that the bank documents, cash books and the amended financial statements had been submitted to the Auditor General.**

ii. **The committee marked the matter as resolved.**

STATEMENT OF EXPENDITURE – SUBSCRIPTIONS TO INTERNATIONAL ORGANIZATIONS

Basis for Adverse Opinion

83. Accounting Policies

Contrary to the requirements of International Public Sector Accounting Standards-Cash Basis specific accounting policies used for significant transactions and other events have not been disclosed in the financial statements.

Submission by the Accounting Officer

The Accounting Officer in stated that the financial statements initially presented for Audit review had not disclosed the Accounting policies adopted by the National Treasury. This was an omission and the Accounts were amended to incorporate the significant Accounting policies adopted and have been forwarded for Audit review.

Committee Observations and Findings

i. **The Committee with advice of the Auditor General observed that copies of correspondences and other relevant documents had been provided and verified.**

ii. **The committee marked the matter as resolved.**

84: Unconfirmed Balances

The details of Kenya Government share subscription and capital contribution to twelve international organizations reflects local value of subscription totaling Kshs.117, 444,637,095.00 against various amounts in foreign currencies as at 30th June 2015. The National Treasury requested the organizations to confirm and nine had confirmed by the time of audit. The remaining three have since confirmed and forwarded for audit review. The variances are due to movements in the accounts maintained by the international organizations which had not been captured in our books. To address the variances, the statement has been revised and submitted for audit review.

Organization	Balance as per the Statement (Foreign currency)	Balance as per the Statement (Local value) Kshs.	Balance as per the Confirmation (Foreign currency)
i. International Monetary Fund	SDR 261,156,794.00	36,397,422,379.78	SDR 258,124,458.00
ii.African Development Bank	Unit of Account 260,960,000.00	35,481,165,440.00	Unit of Account 915,260,000.00
iii.E.A.Development	Unit of Account	10,877,120,000.00	Unit of Account

Bank	80,000,000.00		73,800,000.00
iv.African Capacity Building Initiative	US dollars 250,000.00	24,659,850.00	US dollar 500,000.00
	TOTAL	**82,780,367,669.78**	

84.2 Independent confirmation of Kenya Government share subscription and capital contribution was not received from five organizations listed below inspite of a request to the National Treasury to ask them to confirm the balances as at 30 June 2015:

Organization	Balance as per the Statement (Foreign currency)	Balance as per the Statement (Local Value) Kshs.
(i) International Bank for Reconstruction and Development	US dollars 296,882,735.02	29,284,334,852.73
(ii) International Finance Corporation	US dollars 4,041,000.00	398, 601,815.40
(iii) Shelter Afrique	Unit of Account 26,680.000.00	197,278,800.00
(iv) P.T.A. Bank	US dollars 125,000.00	3,627,519,520
(v) Macro- Economic Financial Management Institute		
	TOTAL	**33,520,064,913.13**

The accuracy of the above balances totaling Kshs.33, 520,064,913.13 could not be ascertained

Submission by the Accounting Officer

The Accounting Officer stated that the details of Kenya Government share subscription and capital contribution to twelve international organizations reflects local value of subscription totaling Kshs.117, 444,637,095.00 against various amounts in foreign currencies as at 30th June 2015. The National Treasury requested the organizations to confirm and nine had confirmed by the time of audit. The remaining three have since confirmed and forwarded for audit review. The variances are due to movements in the accounts maintained by the international organizations which had not been captured in our books. To address the variances, the statement has been revised and submitted for audit review.

Committee Observations and Findings

i. **The Committee with advice of the Auditor General observed that the bank documents, cash books and the amended financial statements had been submitted to the Auditor General.**

ii. **The committee marked the matter as resolved.**

85. Bank Reconciliation

In the report for 2013/2014, reference was made to failure to provide a bank reconciliation statement for the balance of Kshs.2, 601,589.25 reflected as at 30 June 2014 in the cash book for Recurrent Account No.01-010-R053: Subscriptions to International Organizations. The bank reconciliation statement as at 30 June 2014 which has been provided subsequently reflects a bank balance of Kshs.2, 327,778.30 which differs with a nil balance shown in the bank certificate. In addition, no bank reconciliation statement as at 30 June 2015 has been provided for audit.

Submission by the Accounting Officer

The Accounting Officer stated that the initially the bank reconciliation statement submitted for audit review as at 30th June, 2014 reflected a bank balance of Kshs.2, 327,778.30 instead of showing a nil balance. This was an oversight since the reconciliation had not factored Kshs.2, 327,778.30 that had been transferred to Exchequer vide letter Ref. No.AG.17/ii/Vol.65 (56) of 30th June, 2014.However, bank reconciliation statement as at 30th June, 2014 was later amended to reflect the transfer to exchequer. In addition, bank reconciliation statement as at 30th June, 2015 was prepared and not availed for audit. This was an omission. The two reconciliations were availed for audit review.

Committee Observations and Findings

i. **The Committee observed that the bank documents, cash books and the amended financial statements had been submitted to the Auditor General.**
ii. **The committee marked the matter as resolved.**

3.0. THE PRESIDENCY

THE FINANCIAL STATEMENTS FOR VOTE 101

Mr. Lawrence Lenyayapa, the Accounting Officer for Vote 101, The Presidency accompanied by Mr. Samuel Mugambi; Deputy Chief Finance Officer, Mr. Samuel Gitimu; Senior Architect, State Department for Public Works; Mr. Joel Langatt; Senior Assistant Accountant General and Mr. Benson Kinyua; Chief Accountant appeared before the Committee on 4th April 2017, to adduce evidence on the audited Financial Statements of Vote 101 the Presidency for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Baisis for Qualified Opinion

86. Proposed Conversion of Mechanical Workshop to Offices at State House and Stalled Project for the Construction of Mechanical Workshop and Petrol Station

In paragraph 209 of the report for 2012/2013, attention was drawn to the irregular payment of Kshs.88, 826,396.00 to a contractor who was constructing a mechanical workshop and petrol station at state house that had stalled. Although the matter was discussed before Public Accounts Committee (PAC), a determination was not made as the project was to be evaluated by the relevant technocrats to determine value for money.

However, before the evaluation was done, State House awarded a new contract of Kshs.137, 407,865.00 to another contractor for conversion of the mechanical workshop to offices.

There were indications that the stalled project costing KShs.88, 826,396.00 was demolished to pave for the construction of new project, therefore, the value for money for the initial expenditure could not be confirmed in accordance with Section 68(1) (a) and (b) of the Public Finance Management Act (2012).

Consequently, the propriety and lawfulness of the expenditure amounting to Kshs.88, 826,396.00 could not be confirmed.

The Accounting Officer submitted that State House awarded a contract to construct a mechanical workshop with offices, a petrol station and associated external works comprising parking, sewer line and access road at a contract price of Kshs. 105,500,000.00 which commenced on 23rd May 2012 with completion period of 52 weeks.

The payment of Kshs. 88,826,396.00 was paid vide 11 certificates issued by Ministry of Public Works, spread over 52 weeks. This was in respect to the following works done;

Sludge disposal construction and connection to the existing sewer line and parking finished in concrete blocks as cabro block which is in use;

Two storey office block comprising 16 offices completed as designed and in use.

The Accounting Officer further submitted that with the expansion of the executive office of the President, more office space was urgently required. The Ministry of Lands, Housing and Urban

Development was requested to facilitate the conversion of the mechanical workshop and petrol station to offices. Only a small part was demolished for the works.

The Accounting Officer submitted that the contractor had not been paid a fee for termination as assessment was still being done on completion of the project, as per the contract.

Committee Observations and Findings

i. **The Committee observed that the project stalled as a result of lack of foresight in planning by the Ministry of Public Works.**

ii. **The Accounting Officer was also required to avail the contractual document which he never did.**

Committee Recommendation

The Ministry of Public Works as the sole supervisor and manager of government buildings and related structures has failed on many occasions and therefore, each government department should be allowed to hired private Engineers on contract to supervise their structural projects.

87. Pending Bills

Records maintained by the Presidency indicate that bills amounting to KShs.949, 634,649.00 chargeable to Vote 1011 and relating to 2014/2015 were not paid during the year under review but instead were carried forward to2015/2016. Had these bills been paid and the expenditure charged to the accounts for 2014/2015, the financial statements would have reflected deficit of Kshs.946, 484,649.00 instead of net surplus of Kshs.3, 150,000.00 now shown.

Submission by the Accounting Officer

The Accounting Officer submitted that the matter had been resolved as the pending bills resulting from under issuance of exchequer had been settled as 1st charge in the subsequent financial year.

Committee Observation and Finding

The Committee observed that had the Accounting Officer submitted this information promptly, this matter would not have been an audit query.

Committee Recommendation

The Committee recommends that the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

4.0. MINISTRY OF DEFENCE

THE FINANCIAL STATEMENTS FOR VOTE 104

Mr. Saitoti Torome, the Accounting Officer, for Vote 104, the Ministry of Defence accompanied by Lt. Gen. Joseph Kasaon, Vice Chief of Defence Forces; Brig. D.A. Ngaira, Commander Engineering Brigade; Mr. C.K. Muhia, Senior Chief Finance Officer; Col. M.S. Mwacharo, Colonel, Projects; Brig. J.A. Ouda, Commander 12 Engineer Baracks; Col. E.M Mwanyika, Colonel Works – Headquarters; Ms E.W. Wanjonji, Acting Principal Accountant; Brig. M. C. Okech, Defence Headquarters; Mr. Gabriel Melita Ndilay, Personal Assistant to the Principal Secretary and Mr. G. F. Sakwa, Parliamentary Liaison Officer, appeared before the Committee on 30th March 2017, 17th July, 2018 and to adduce evidence on the audited Financial Statements of Vote 111 Ministry of Defence for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

88. Payment of Taxes on Imported Goods to Kenya Revenue Authority

Examination of records maintained at Ministry of Defence show that Kshs.162, 296,569.25 was issued as imprests to officers serving at Central Supply Depot (CSD) and Kenya Air Force Logistics Branch for purposes of clearing goods from various ports of entry on behalf of Kenya Air Force.

It has been explained that Kshs.162, 296,569.25 was paid in A/c No.01003058230400 at National Bank of Kenya owned by KRA Customs and Excise Tax COLLN. It has further been explained that the amount was in respect of Value Added Tax(VAT) and Excise Duty on imported military equipment after verification by Kenya Revenue Authority. However, a diligent check of tax returns submitted by Kenya Revenue Authority does not reflect receipt of the stated amount.

In addition records further show that these payments were made through Camp Administration Unit (CAU) Account No. 100100902600 at National Bank where the Ministry transfers money from Recurrent Bank Account No.1000181435 at Central Bank of Kenya. However, the bank statement for Camp Administration Unit (CAU) Account No. 100100902600 at National Bank has not been availed by the Ministry of Defence despite the fact that several requests have been made contrary to Section 37(a)(i) and (ii) of the Public Audit Act.,2003.

In the circumstances, therefore, it is not possible to confirm that the value for money was obtained in the expenditure totalling Kshs.162, 296,569.25 as required by Section 68(1)(a) and (b) of Public Finance Management Act, 2012 and that the expenditure is lawful as required by Article 229(6) of the Constitution of Kenya, 2010.

Submission by the Accounting Officer

He admitted that the Ministry paid Kshs.162, 296,569.25 through imprests for Value Added Tax (VAT) and Railway Development Levy (RDL) introduced through the Finance Act NO. 38 of 2013 on imported military items at the port of Mombasa and various Airports in Kenya.

He also submitted that the ministry imports goods of high value resulting in high VAT amounts, therefore necessitates use of imprests to pay VAT at KRA at each stage of clearance of goods at the ports. This is the reason for depositing money at National Bank of Kenya Account No. 01003058230400.

The Accounting Officer added that the Kenya Revenue Authority had confirmed receipt of Kshs. 162,296,569.25 out of which Kshs. 36,274,813.00 was received for various transactions which could not be directly traceable in the bank statements as it related to two or more goods cleared. These goods have now been identified and matched to the funds in National Bank Simba system and the appendix has been availed to the auditors.

The meeting heard that the amount of Kshs.162, 296,569.25 that was outstanding at the time of audit had been reconciled and evidence including bank statements provided to the auditors.

Committee Observation and Finding

The acknowledgement letter from KRA on receipt of Kshs. 162,296,569.25 was missing and the Committee directed the Accounting Officer to provide it.

89. Procurement and Utilization of Hydraulic Excavators

Examination of records shows that the Ministry procured two (2) Caterpillar 374DL through direct procurement from a supplier in 2011/2012 financial year. The contract price was Kshs.185, 323,994.10 which was paid through a letter of credit to Barclays Bank vide Payment Voucher No.DPL LOGS/MSSR 62 dated 8 June 2011. Subsequently, the two (2) Caterpillar 374DL hydraulic excavators were received, inspected and taken on charge both at DEFOD Kahawa and 12 Engineers BN in Thika in 2012. The management has not explained why direct Procurement method was used instead of open tender.

89.1 Under Utilized Excavators at 12 Engineers BN

Although the Ministry of Defence spent Kshs.185, 323,994.10 on urgent purchase of the two heavy duty excavators for the purpose of road construction, civil works and disaster management, examination of records maintained at 12 Engineers BN reveals that they have never been used for the intended purposes except training. The Ministry has not justified the basis for incurring huge expenditure on underutilized excavators.

89.2 Delays in Repairs of the Equipment by the Vendor

Information and documents obtained from 12 Engineers BN indicates that a Quick Coupler Cylinder in one of the two excavators was broken during training on 21 May 2015 and the supplier carried the component for repairs. However, an audit inspection undertaken on 16 October 2015 reveals that the component has not been returned, therefore, the equipment has remained unserviceable. No justification has been provided for the delay in repairs and maintenance of the equipment.

89.3 Overpricing

Examination of records further reveals that the prices for excavators were higher than the prevailing market prices as a market survey undertaken by the user indicates that the estimated cost of the two excavators is Kshs.40,000,000.00while the actual purchase price of the two excavators is Kshs.185,323,994.10,resulting in excess and illegal payment of Kshs.145,323,994.50.

Under the circumstances, it is not possible to confirm that value for money was obtained in an expenditure totaling Kshs.185, 323,994.10 as required by section 68 (1) (b) of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that in 2006, the ministry in partnership with Ministry of Water and Environment were mandated by the government to construct dams/pans and carry out borehole drilling in the North Rift in support of securitization programme dubbed Operation Dumisha Amani'. The equipment was procured for this purpose.

He added that the equipment could only be supplied by the local agent of the manufacturer, Mantrac and were therefore directly procured as per Section 74 (2) (a) and (b) of the Public Procurement and Disposal Act 2005.

The Accounting Officer clarified that by the time procurement was completed; the security operation had ended, giving the false impression that the equipment were idle. They were however in use as need arises. He also confirmed that one of the equipment had been repaired.

He added that the contract price was commensurate to market rates at the time of purchase.

The Committee was informed that the Auditor General had verified that the faulty equipment had been repaired.

Committee Observations and Findings

i. **The Auditor General had verified that the faulty equipment had been repaired.**

ii. **The Committee established that there was overpayment based on market survey.**

iii. **The Ministry of Defence procured two (2) Caterpillar 374DL through direct procurement from a supplier in 2011/2012 financial year and did not table any**

reasons disclosing the ground of urgency pursuant to the provisions of section 74 (2) (a) and (b) of the Public Procurement and Disposal Act No. 5 of 2005.

iv. **The Ministry of Defence proceeded to purchase overpriced equipment despite having the equipment was overpriced from its own market survey in relation to the matter under paragraph 89.3.**

v. **The Ministry of Defence did not table any evidence to demonstrate that the purchase two (2) Caterpillar 374DL through direct procurement was conducted in accordance with procurement laws or that there was value for money was obtained in an expenditure totaling Kshs.185, 323,994.10 as required by section 68 (1) (b) of the Public Finance Management Act, 2012 with respect to the procurement and utilization of hydraulic excavators under paragraph 89.**

vi. **The Committee observed that minutes of the Ministerial Tender Committee were missing and directed the Accounting Officer to provide them.**

90. Examination of Contract Records for Erection and Completion of 144 Married Quarters at Kenyatta Barracks-Gilgil

Examination of contract records maintained at the Ministry of Defence Headquarters relating to the erection and completion of 144 Married Quarters at Kenyatta Barracks-Gilgil revealed unsatisfactory and unexplained matters as follows:

Initial Contract

A tender was awarded to Capital Construction Company at a contract sum of Kshs.346, 658,629.00 vide tender no. D08 RV/NKU/401 - JOB NO.1087P for erection and completion of one hundred and forty-four (144) Married Quarters at Kenyatta Barracks-Gilgil.

The work commenced on 14 October, 2005 and was planned for one hundred (100) weeks, with completion date expected to be 22 September, 2007. The Scope of works included construction of 144 number three bed roomed houses in twenty-four (24) blocks, associated civil work (roads and sewerage); associated electrical and mechanical works; and high and low level water storage tanks.

Examination of records showed that there was slow progress of work and the contractor was unable to complete the work as expected. The contract period was revised and extended by eighty-eight (88) weeks over and above one hundred (100) weeks and the new completion date was expected to be 30 June, 2009 after considerations by the two parties. However, the contractor defaulted and failed to meet the new completion time.

The Ministry therefore decided to terminate the contract. By the time the contract was terminated, only 61 percent of the work had been completed. However, the contractor had been paid Kshs. 297,354,059.74 representing 86 percent of the contract sum of Kshs. 346,658,629.00 indicating an apparent overpayment of Kshs. 85,892,295.00.

On commencement of the contract, the Ministry had paid the contractor an advance of Kshs.34, 665,863.00 against a bank guarantee from a financial institution on the understanding that the amount would be periodically reduced by amounts recovered by the Ministry from proceeds of the contract. By the time the contract was terminated the Ministry had recovered a sum of Kshs.30, 222,854.89leaving a balance of Kshs.4, 443,008.11. The Advance Payment Warrant expired on 26 August 2007.

Submission by Accounting Officer

90.1 Contracts for Proposed Completion of 144 Married Quarters – GILGIL

Examination of contract records maintained at Defence Headquarters on the proposed completion of 144 Married Quarters at Kenyatta Barracks shows that three contracts were awarded to one contractor at a total tender sum of Kshs.660,000,000.00 as follows:-

Contract	**Contract Sum – Kshs**	**Completion Date**
Phase I	169,000,000.00	14.05.2014
Phase II	221,000,000.00	6.08.2015
Phase III	270,000,000.00	In progress
Total	**660,000,000.00**	

90.2 Delays in Completion of Works

An audit inspection of the works carried out during the month of April 2015 reveals that 144 MQS at Gilgil which was planned to be completed by 30 June 2009, has not been completed due to various reasons: -

(a) Termination of initial contract

(b) Post election violence in 2007/2008

(c) Change of specifications

(d) New tax regime of VAT at 16 percent on imported materials and direct withholding income tax resulting in escalation of construction cost.

In these circumstances therefore, it is evident that there was poor financial planning that has increased the project’s original cost of Kshs.346,658,629.00 to a combined cost of subsequent contracts awarded totaling Kshs.957,354,059.75.

In this circumstance, therefore, it is not possible to confirm that the value for money would be obtained in the total expenditure of Kshs.957, 354,059.75 as required by section 68 (1) (b) of Public Finance Management Act, 2012.

Committee Observations and Findings

i. **The Committee observed that the project was complete at the time meeting of with the Ministry.**

ii. **The Accounting Officer did not submit this information promptly and therefore the matter was raised as an audit query.**

Committee Recommendations

The Accounting Officer should institute measures to ensure that the Department always acts on the Auditor General's management letters to avoid audit queries.

91. Pending Bills

The Financial Statements for the year ended 30 June 2015 show that bills totaling Kshs.4,187,353,000.00 chargeable to Recurrent Vote were not settled during the year 2014 / 2015 but were instead carried forward to 2015 / 2016.

Analysis of pending bills records show a similar trend in their management as follows: -

Financial Year	Amount (Kshs.)
2012/2013	4,463,081,170.85
2013/2014	3,924,997,000.00
2014/2015	4,187,353,000.00

In addition, the Ministry has not provided details of payees and the extent of individual debt for the three (3) years. Consequently, it is not possible to confirm the validity and completeness of pending bills amounting to Kshs.4,187,353,000.00; Kshs.3,924,997,000.00; and Kshs.4,463,081,170.85purportedly incurred during three (3) consecutive financial years 2014/2015;2013/2014; and 2012/2013.

The Committee heard that the matter was resolved as the pending bills were treated as 1st charge in subsequent financial year.

Committee Recommendations

The Accounting Officer should institute measures to ensure that the Department always acts on the Auditor General's management letters to forestall audit queries

92. Non-Disclosure in the Statement of Receipts and Payments

The Statement of Receipts and Payments for the year ended 30 June 2015 reflects total payments of Kshs. 80,072,421,000.00, out of which payments totaling Kshs.73,672,278,000.00, or approximately 92 percent of the total payments are shown as a block figure relating to military expenditure. The nature of this expenditure was not disclosed in terms of compensation of employees, use of goods and services, transfers to other Government units, acquisition of assets and other payments as required by the International Public Sector Accounting Standards (IPSAS) which provides that payments should be classified according to the nature and their function. Consequently, it is not possible to confirm its accuracy and completeness.

Committee Observation

The Committee heard that the matter was resolved as the pending bills were treated as 1st charge in subsequent financial year.

Committee Recommendations

i. **The Committee recommends that the Director of Public Prosecutions immediately commences investigations on the circumstances under which the irregular procurement was carried out and prosecutes the members of the Ministerial Tender Committee that approved the procurement, as well as the then Accounting Officer.**

ii. **The Accounting Officer should institute measures to ensure that the Department always acts on the Auditor General's management letters to forestall audit queries**

5.0. MINISTRY OF FOREIGN AFFAIRS

FINANCIAL STATEMENTS FOR VOTE 105

Amb. Macharia Kamau, the Accounting Officer for Vote 105, the Ministry of Foreign Affairs and International Trade accompanied by Mr. J.A. Aloyo; Chief Finance Officer, Mr. Henry Obino; Director, Administration, Amb. Tom Amolo; Political and Diplomatic Secretary, Mr. Lawrence Waweru; Director, Human Resource Management - DHRM, Mr. Eliphas Barine; Director, Parliamentary Liaison, Mr. Samson Ongalo (Ms. Phoebe Ndonye); Senior Assistant Accountant General, Mr. Nelson Mose; Senior Finance Officer, Mr. Hilary Limo; Chief Accountant, Mr. Eliud Matira; Head Supply Chain Management, Ms. Theresa Icharia; Senior Assistant Director, Mr. Benard Yegon; Finance Officer, Mr. Joshua Magare; Accountant, Ms. Margaret Gachuru; Assets Officer and Mr. James Omosa; Special Assistant to the Principal Secretary appeared before the Committee on 3rd May 2018, 4th May 2018 to adduce evidence on the audited Financial Statements of Vote 105 the Ministry of Foreign affairs and International Trade for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Baisis for Qualified Opinion

93. Revenue

The statement of receipts and payments for the Ministry reflects total revenue of Kshs.13, 650,088,000.00 for the year ended 30 June 2015. Included in the above revenue balance is Kshs.767, 091,000.00 for revenue collected as Appropriation In Aid from Visas, other consular Fees and Rental Income at various missions and embassies abroad. However, the accuracy and completeness of the reported revenue could not be ascertained due to the following unsettled and

Unreconciled differences: -

93.1 Loss of Revenue

Examination of revenue records at selected missions/embassies revealed that revenue collected during the financial year 2014 / 2015 is Kshs.285; 533,779.00while the actual revenue reported in the financial statements is Kshs.214, 505,543.00 resulting in a loss of Kshs.71, 028,236.00.

Diligence check of four (4) Missions / Embassies, revealed loss of revenue totaling Kshs.137,718,518.00 at London (Kshs.82,369,012.00); Rome(Kshs.47,434,515.00); Addis Ababa (Kshs.6,316,584.00) and Washington DC(Kshs.1,598,407.00) during the financial year 2013 / 2014.

Submission by Accounting Officer

The accounting officer submitted that it was true that the statement of receipts and payments for the Ministry reflects total revenue of Kshs.13,650,088,000.00 for the year ended 30th June 2015 out of which revenue balance of Kshs.767,091,000.00 was revenue collected as appropriation in aid from visas, other consular fees and rental income at various missions and embassies abroad

That it was true that the actual revenue records reviewed from selected missions/embassies revealed that revenue collected during the financial year 2014/2015 was Kshs.201, 445,511.00 (and not Kshs.285, 533,779.00 as reported by the auditors) while the actual revenue reported in the financial statements (in respect of the same missions} was Kshs.214, 505,543.00 resulting in a difference of Kshs.13, 060,032.00. The variation between the revenue figures as reported by the auditors and the ones declared by the various missions is attributed to the following factors:-

- Included a number of receipts that are not appropriation in aid e.g East African Tourist Visa fees, which are collected and accounted for separately.
- Incorporated gross rental income without deducting applicable refunds.
- Included proceeds from disposal of assets which were directly ploughed back in replacement of the same assets without recording them as appropriation in aid.

It should be noted further that the difference between the actual revenue declared by the missions of Ksh.201,445,511.00 and the actual reported in the financial statement of Ksh.214,505,543.00 is attributed to reporting timing differences for funds and supporting documents on transit and to capturing / casting errors during the preparation of financial statements. The Ministry has reconciled these differences and availed the same together with explanations for the variations in the revenue collections to the audit team.

The ministry will be correcting these errors through prior year adjustments to be made during the preparation of the 2016/2017 financial year statements.

Further, as indicated in the audit report, diligence check on four missions during the 2013/2014 financial year revealed disparities between revenue collected and revenue reported in financial statement amounting to Ksh. 137,718,518.00 details of which are indicated in the table below.

Difference of revenue 2013/2014

Mission	**Actual collection**	**Financial statement 2013/14**	**Difference**
London	191,611,620	109,242,608	82,369,012
Rome	62,115,905	14,681,390	47,434,515
Addis Ababa	11,918,132	5,601,548	6,316,584

Washington Dc	172,449,710	170,851,303	1,598,407
Difference Ksh			**137,718,518**

As explained above the differences relates to the factors identified above and will be addressed through prior year adjustments to be made during the preparation of the 2016/2017 financial year statements.

Committee Observations and Findings

i. **The variances in the various categories of revenues collected were eventually reconciled and shared with the Auditor General.**
ii. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officers must at all times ensure that any variances captured in financial statements are reconciled promptly.

93.2 Unauthorized refund of Appropriations-In-Aid

Although revenue records maintained at the Kenya Embassy in Pretoria revealed that revenue from visa fee amounting to Kshs.1, 041,637.50 was refunded to the applicants, there is no original receipt to confirm that Kshs.1, 041,637.50 was refunded to one hundred and forty one (141) applicants.

In addition, visa fees are not refundable; therefore, the Ministry should explain the basis for the refund if it was not fraudulent.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the records maintained at the Kenya Embassy in Pretoria revealed that revenue collected as consular service charge (and not Visa fee) amounting to Kshs.1,041,637.50 during 2014/2015 financial year was refunded to the applicants.

The Kenya government vide letter Reference MFA.PRO.7/15/1/VOL.1/ (202) dated 9th June 2014 introduced a consular service charge for South African ordinary passport holders travelling to or transiting through Kenya at a rate of R750, in keeping with the principle of Reciprocity. This charge was to be applied effective from 1st July 2014 but was postponed to take effect from 1st September, 2014 vide letter Ref. No. MFA.PRO.7/15/1/VOL.1/ (286) dated 1st July 2014.

The consular processing fee was collected for three days from 12th to 14th August, 2014, to prepare in advance for those who wanted to travel to Kenya from 1st of September 2014.

The consular processing fee was, however, suspended before the due date of implementation vide letter Reference MFA.PRO.7/15/1/VOL.11 dated 12th August, 2014. The applicants, therefore, requested for refund of the processing fee already paid. The applicants were then allowed to retrieve their passports and the processing fees and were made to sign a register (see copy of register attached).

It should be noted further that: -

- No visa sticker had been affixed on the passports as the fee was a consular processing service charge and not for visa processing.
- The High Commissioner authorized refund of the monies.
- All applicants returned the original receipts issued for cancellation.

93.3 Loss of Visa Stickers

Examination of Counter Requisition and Issue Voucher No. 6818954 dated 13th February 2015 shows that 5,000 single journey visa stickers were issued to the Kenya Embassy in Washington DC while verification at the Embassy on 11th September 2015 revealed that 3,000 single journey visa stickers were received by the mission resulting in an unexplained loss of 2000 single journey visa stickers.

In this circumstance, it is not possible to confirm that 2,000 single journey visa stickers were lawfully used as required by Article 229 (6) of the Constitution.

Submission by Accounting Officer

The accounting officer submitted that it was true that as per counter requisition and issue voucher no 6818954 dated 13thFebruary, 2015, 5000 single journey visa stickers were issued to the Kenya Embassy in Washington DC in response to their requisition **Ref. No. KEW/FIN/18/VOL.2** dated 6th February 2015.

The mission vide letter **Ref. No. KEW/FIN/18/VOL.2** dated 25th February, 2015 acknowledged receipt of the 5000 single journey visa stickers, the same number that was issued to them. Copies of their requisition letter, dispatch letter and duly signed S11 (Counter Issue Receipt Voucher) number 6818954 are hereby attached.

The mission has further provided evidence showing that out of the 5000 visa stickers issued to them, 2000 stickers were issued to New York Consular Office while the balance of 3000 stickers were used at the Washington DC Embassy.

The above facts and supporting documents have been availed for audit review.

Committee Observations and Findings

Documentation on the total number of visa stickers issued to the foreign missions was produced and reconciliation eventually done with the Auditor General.

Committee Recommendation

Accounting Officers must at all times ensure that any variances captured in financial statements are reconciled promptly.

93.4 Accuracy of Revenue Collected in Foreign Missions/Embassies

Examination of Estimates of Revenue, Grants and Loans of the Government of Kenya for the year ended 30 June 2015 is in item 1420225 that Immigration Visas and Other Consular Fees are Revenue Items and not Appropriations-In-Aid asprinted in the Estimates and Reported in Financial Statements of the Ministry of Foreign Affairs and International Trade.

Although the Ministry explains that collected Revenue is used at source on the understanding that budgeted funds issued considers Revenue already utilized, there is no policy document availed that exempts the Ministry from use of controls developed by the National Treasury.

In addition, audit of the Ministry's Headquarter and a selected sample of foreign missions/embassies show that Counter Receipt Book Register (CBRB) is not updated contrary to section 118 (2) of the Public Finance Management Regulations (2015). Consequently, the accuracy and completeness of Revenue reported in the Financial Statements could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that it was true the ministry uses the official Government financial statistical codes (the official accounting and budgeting codes - 1400000 series) to capture the planned Appropriations-In-Aid- A.I.A collections in the budget. Under this classification the immigration visas and other consular fees were budgeted as A.I.A and are covered under code (Item) 1420322 in the ministry's budget.

He also submitted that the ministry collected and used the A.I.A at source. This is because A.I.A according to the government financial regulations and procedures (Section 6.3) are a particular classis of revenue which the National Treasury authorizes an accounting officer to use in addition to the amounts to be used from the exchequer to meet expenditure. In light of this therefore, the missions collect and utilize the A.I.A within their budget to meet expenditure in addition to the exchequer issues.

He added that the National Treasury has since introduced the e-citizen platform for managing immigration visas and other consular services. Under this platform, funds collected under immigration visas, other consular fees and specific taxes in the missions are remitted direct to the exchequer account and the Treasury provides exchequer funding equivalent to the gross total of the ministry's budget. The ministry, however, still generates Appropriations-In-Aid from other classes such as rental income and disposal of assets, which are still budgeted for and used to supplement the exchequer funding from the National Treasury.

Further, he stated that it was true at the time of audit review there was a backlog on some Counter receipt book registers which were yet to be updated at the ministry headquarters and missions. The ministry has since updated these registers and has availed the same for audit review Appendix 93.4:2014/2015. For the future however, the ministry was implementing the following interventions as a way of ensuring accurate records are maintained and proper accountability of accountable records issued:

- Digitalization of accountable documents to minimize need for manual interventions.
- Engage the National Treasury to establish modalities of rolling out Vote Book Management IT system to be uploaded onto the IFMIS system.

Committee Observations and Findings

i. **The Committee observed that there was no clear mechanism for collection of and accounting for revenue in foreign missions at the time of audit.**

ii. **The heads of mission did not submit information on time and therefore the matter was raised as an audit query.**

iii. **The Ministry has since adopted digital technology to improve the process.**

Committee Recommendations

i. **The AIE holders (Heads of Mission) must, at all times, ensure that they submit on a timely basis all information required as per the Auditor General's management letters to forestall audit queries.**

ii. **The Committee recommends that the National Treasury formally appoints a receiver of revenue at the ministry to deal with revenue collected from foreign missions/ embassies.**

94. Foreign Exchange Losses/Gains

Records made available for audit in selected Foreign Missions/Embassies indicate that exchange loss arising from fluctuation of the Kenya Shilling against other hard currencies was Kshs.109, 217,653.30 while exchange gain was Kshs.27, 925,602.60. These losses and gains have not been disclosed in the financial statements for the year 2014 / 2015.

Further, examination of these records revealed that these losses arose from the fixing of exchange rate by the Ministry of Foreign Affairs through letters Ref: MFA.FIN 2/16 dated 11 February 2013 and MFA 501/FIN 2/16 dated 6 August 2015 instead of using the prevailing market exchange rates resulting in underfunding the budget of foreign Missions and Embassies by the similar amount purported to be losses.

No reason has been given for the basis of fixing this rate that denies foreign Mission / Embassies funding already approved by National Assembly, a factor that could contribute to irregular use of Revenue and unauthorized Reallocations.

In addition, the same rate has been used to misrepresent the actual value of Revenue collected in foreign currency.

Submission by Accounting Officer

The Accounting Officer submitted that the foreign exchange losses/ gains were not disclosed because the template provided by Accounting Standards Board did not have the provision for separate disclosure of these items.

She added that the fixing of foreign exchange rates was done for the following key objectives;

- Enable the ministry to maintain a unified and standard Kenya currency-based accounting system for both the head office and the missions;
- To match funds availed to missions with the approved budget and hence avoid over/under expenditures that would be occasioned by use of the various foreign currencies.

Moreover, it was not the fixing of the rates but the financial environment that resulted in forex losses. The ministry was engaging Treasury to re-introduce a foreign exchange assumption allocation fund to cushion against forex fluctuations.

Committee Observations and Findings

The public may lose money on foreign exchange rate fluctuations due the practice of enforcing a fixed forex rate in foreign Embassies throughout the year.

Committee Recommendations

i. **The National Treasury must develop and operationalize a policy framework to resolve the issue of Foreign Exchange Loss/Gains**

ii. **There is need for the National Treasury to provide a template for reporting of forex gains and losses and consider the re-introduction of the forex assumption allocation fund so as to solve the matter.**

iii. **The Ministry should consider reverting to the quarterly fixed forex rate use in foreign embassies.**

95. Purchase of Office Property in Kampala

95.1 Advertisement

The Ministry of Foreign Affairs and International Trade advertised for the purchase of Office Property in Kampala Uganda in a local daily newspaper and that interested vendors were invited through advertisement in the local print media on 30thSeptember, 2014, and an addendum in the local press on 23rd October 2014 varied the tender opening date to 7th November 2014**. (**See copy of advert).

Submission by Accounting Officer

The accounting officer admitted that it was true that interested vendors were invited through advertisement in the local print media on 30thSeptember, 2014, and an addendum in the local press on 23rd October 2014 varied the tender opening date to 7th November 2014**.**

95.2 Appointment of Technical/ Tender Processing Committee

The Ministry then appointed a technical team tasked to initiate the process of "Procurement of Chancery Building at Kampala" whose professions include:

(i) Procurement Expert

(ii) Structural Engineer

(iii) Architect

(iv) Valuer

(v) Asset Management Expert

(vi) Finance Expert

(vii) High Commissioner to Kampala

Submission by Accounting Officer

A Tender Processing Committee (comprising officers from MFA&IT Headquarters, the Mission, and Technical officer from the Ministry of Lands, Housing and Urban Development) was constituted to process the tender.

The committee comprised the following: -

1.	Amb. R.M.Ngesu	KHC Kampala	Chairman
2.	Mr. Kiama Njoroge	KHC Kampala	Member
3.	Mr. James Nderitu	KHC Kampala	Member
4.	Mr. Alex Kyatha	KHC Kampala	Member
5.	Dr. Margaret Gachuru	Assets	Member
6.	Eng. B. N. Mwangi	Min of land, HUD	Member
7.	Arch. S. M. Ndiritu	Min of land, HUD	Member
8.	Mr. Festus Wangwe	CPPMD	Member
9.	Mr. R. Osienya	Supply Chain Mgmt.	Secretary

95.3 Characteristics of Property Required

The characteristics of the required property defined in the advertisement were confirmed by the technical team as follows:

i) Location – The property should be located in Kololo

ii) Size of the Plot – The property should be a minimum of half (1/2) an acre or above.

iii) Accommodation – The building should at least be double storied with a minimum plinth area of 900 square metres.

iv) External Facilities – should include guard house, parking area etcor adequate space to accommodate them.

v) Services – the property should be well serviced with infrastructural facilities.

Submission by Accounting Officer

The preferred property was required to have the following characteristics: -

a. Be within Kololo neighborhood which is the preferred area for Missions and diplomats' residences.
b. Be on minimum half acre plot.
c. Built up area of a minimum of 900 square metres.
d. To have external facilities such as guard house, parking and external washrooms. If these were not available the property to have space for their construction.
e. The property to be well serviced by roads, connected to water and electricity.

95.4 Opening of Bids

Twelve (12) bidders responded and their bids were opened on 7 November 2014, after which the Technical/Tender Processing Committee disqualified five (5) bids on technical grounds.

The remaining seven (7) bids were further subjected to a financial evaluation which was carried out on 21 November 2014 and ranked as follows: -

Bidder ranking	**Description**	**Bid price (USD)**
1	Lowest qualifying responsive bid	2,500,000
2	Second lowest qualifying responsive bid	3,620,000
3	Third lowest qualifying responsive bid	3,650,000
4	Fourth lowest qualifying responsive bid	3,850,000
5	Fifth lowest qualifying responsive bid	3,950,000
6*	Sixth lowest qualifying responsive bid	5,500,000

7	Seventh lowest qualifying responsive bid	6,500,000

However, the bidder ranked number 6 was later disqualified since the property required re-development.

The Technical/ Tender Processing Committee recommended that the lowest bidder be awarded the contract at a price of USD 2,500,000 after confirmation of the following;

(i) Validation by a competent valuer familiar with local property market;

(ii) Due diligence and conveyance to precede payment to the bidder

(iii) If due diligence of the property is found unsuitable consideration be given to other five properties in order of bid price.

Submission by Accounting Officer

The accounting officer admitted that it was true that twelve bidders responded and their bids were opened on 7th November, 2014 after which they were subjected to a technical evaluation process. Five were disqualified on technical grounds.

The remaining seven were subjected to financial evaluation - the sixth bidder, however, was disqualified since the property required redevelopment.

95.5 Award of Purchase Tender

In response to the draft audit report additional information was made available as follows: -

(i)A letter from the Ministry to Principal Secretary, Ministry of Lands, and Ref: MFA.HSE 9/31A dated 31 December 2014 requesting for a nomination of a valuer to provide an opinion of the likely current market price of the property. However, the Ministry of Lands nominated a building Surveyor instead.

(ii) Tender Processing Committee (TPC)'s basis for use of a percentage (percent) variance between the bid price and valuation price to rank the bids for award. The Committee further explained that value for money is best achieved where there is least variance between bid price and valuation price.

(iii) Minute number MFA/MTC/020/2014-2015 for the Ministerial Tender Committee (MTC)'s meeting held on 20 February 2015 which approved that the sixth bid valued at USD 6,500,000 is the highest value for money for the purposes of purchasing the building.

The Ministerial Tender Committee at its meeting no. MFA IT/MTC/020/2014-2015 held on 19th February, 2015 deliberated and awarded the contract to Sung Hwan Kim of P.O Box 7628

Kampala for the sale of Plot No.8 Elgon Road, Kololo Kampala (including all development thereon) at a price of kshs.594,667,125.00 (USD 6,500,000.00).

Submission by Accounting Officer

The Ministerial Tender Committee at its meeting no. MFA&IT/MTC/020/2014-2015 held on 19th February, 2015 deliberated and awarded the contract to Sung Hwan Kim of P.O Box 7628 Kampala for the sale of Plot No.8 Elgon Road, Kololo Kampala (including all development thereon) at a price of kshs.594,667,125.00 (USD 6,500,000.00).

95.6 Audit Observations

Whereas the expenditure of USD 6,500,000 was sanctioned at the Ministerial level, it is noted that the originally intended procurement plan was not adhered to.

The Accounting Officer submitted as follows:

- The Ministry adhered to the procurement plan since Treasury had granted permission for re-allocation to include purchase of chancery building in Kampala at Kshs. 594 million. She submitted the documentary evidence.
- The accepted bid of USD. 6.5 million provided for the highest value for money under various parameters of location, land size, size of building and rental income approximated at Kshs. 15 million. It also had room for six residential houses for embassy staff.

The Committee further heard from the auditors that they had indeed visited the purchased property and were satisfied with it.

Further Submission by the Accounting Officer

The accounting officer admitted that it was true that the expenditure of USD 6,500,000 was sanctioned at the Ministerial leveland the ministry proceeded to procure the property on the following grounds: -

Planning for the Procurement

a. The Ministry had for several years been planning purchase of diplomatic property in Kampala but experienced challenges of budgetary allocation. During FY 2014/2015, the Ministry was allocated Ksh. 1.15 billion for development projects, but this did not provide for purchase of a Chancery in Kampala.

b. The Ministry's Development Committee held a meeting on 13th July 2014 to discuss the Development Budget allocation for the Financial Year and realigned it in accordance with the Ministry's priorities. This meeting decided that purchase of a Chancery in Kampala was a priority, and tentatively proposed an estimated budget of Ksh. 450.0 million.

c. A market survey was carried out in August 2014, aimed at establishing the kind of properties available in Kampala and as such deriving criteria for identifying an appropriate Chancery for the Mission (see copy of market survey report marked as Annex 95 B). Subsequently, the Ministry requested approval from The National Treasury for budget reallocation to take care of the procurement of a Chancery in Kampala, which was granted (see attached copies of letter to, and response from The National Treasury marked as Annex 95 C & D respectively). The Ministry thereafter prepared an addendum to the original Procurement Plan to include purchase of Chancery in Kampala at Ksh. 594.0 million (see copy of Addendum marked as Annex 95 E).

Taking into consideration the above, it is considered that the Ministry adhered to the originally intended procurement plan.

The procurement process

a. The Tender Processing Committee (TPC) had first recommended the property that had the lowest bid price at USD 2.5 million, on the following conditions:

i) Prior to the award, the bid be validated by a Valuation Report from a competent Valuer.

ii) That after Valuation has been carried, further due diligence be carried out,

iii) That conveyance be carried out

iv) That if after the due diligence the property is found unsuitable consideration be given to the other properties.

b. On the recommendation of the Tender Processing Committee (TPC) and the Ministerial Tender Committee, a valuation was carried out by a government Valuer (see copy of Valuation Reports marked as Annex 95 G). The valuation reports provided new additional information that facilitated the Tender Processing Committee to carry out a value for money analysis. In its analysis, the TPC acknowledged that the financial evaluation was based on a comparison of properties with different aggregates, and that the TPC lacked a singular form of data which could be relied upon to weigh or compare the bids on the following;

- Difference in sizes of land,
- Differences in size of built up area,
- Conditions of the buildings.

c. This further analysis that was informed by the Valuation Report determined that the bid for Plot No. 8 Elgon Road, Kololo, for the tender amount of USD 6,500,000 had the highest value for money.

d. The Table below provides a comparison of the various parameters contributing to the value of the properties:

	Plot No. 8 Elgon Terrace	Plot 20B Kawalya Kaggwa Close
Location	Kololo	Kololo
Size of land (acres)	1.065	0.6
Size of building (sq.ft)	25,944	10,007
Rental income (Annual)	15.0 million	Nil

e. From the Table, it is apparent that the property that was procured offers the following advantages:

i. It is located in Kololo as per the requirements in the Terms of Reference,

ii. The plot is almost twice as large, and this provides room for future expansion,

iii. The building is twice as large which offers flexibility and room for expansion,

iv. The property generates rental income of about Ksh. 15.0 million per year, which is almost adequate to pay rent for all the home-based officers.

The property is about 25,944 square feet in area and sits on 1.065 acre plot. Currently, the property houses the Chancery, therefore achieving savings of USD 17,000 per year in rent that was previously paid for rental accommodation. In addition, the property is generating approximately Ksh. 15.0 million per year A.I.A from rental of the extra six apartments. The attributes of the property and income generation capacity clearly demonstrate the TPCs rationale for the choice.

Committee Observations and Findings

i. **The Accounting Officer duly sought authority from the National Treasury for re-allocation of funds within the Ministry budget to cater for the purchase of the office building in Kampala vide letter REF. No. MFA.FIN 2/30 dated 12th March 2015.**

ii. **The National Treasury vide letter dated 10th April 2015 did grant the Ministry of Foreign Affairs the authority to re-allocate the funds as sought in (1) above.**

iii. **The Auditor-General, upon inspection and evaluation of the Kampala property, was satisfied that value for money had been obtained but questioned adherence to procurement plan.**

iv. **It is, however, clear from the documents submitted that the procurement plan was varied with the express approval of the National Treasury. The Committee marked the matter as resolved.**

v. **The Technical/ Tender Processing Committee disqualified the bid of USD 5.5 million on the basis that the property required further development and settled on the bid of USD 6.5 million on the basis that it provided the highest value for money when all parameters were considered.**

Committee Recommendation

The Ministry should develop a policy with clear criteria for future procurement and management of office space for foreign missions whilst paying attention to the embassies' strategic significance and cost considerations.

96. Cash and Cash Equivalents

96.1 Understatement of Cash balance

A further examination of these balances reveals understatement and overstatement of Kshs.672, 027,243.00 and Kshs.21, 808,573.00 respectively from various Missions and Embassies.

In view of these inaccuracies, it is not possible to confirm the correctness of cash and cash equivalents balance of Kshs.1, 228,765,000.00 reflected in the financial statements for 2014 / 2015 financial year.

Submission by the Accounting Officer

The accounting officer admitted that it was true that the cashbook balances reveal overstatement totaling Ksh 21,808,573.00 and understatement amounting to Ksh. 672,027,243.00. Further examination of cash book revealed overstatement amounting to Ksh. 8,723,634.00 and understatement of Ksh 68,982,439.00.

It was also true that as at 30thJune, 2015 the cashbook balances reflected in the financial statements differed from the actual balances in the cash books of various missions as evidenced by the balances reflected in the board of survey reports; giving rise to overstatements totaling Kshs.8, 723,634 and understatements amounting to Kshs.69, 714,752 as per the schedule in the table enclosed in the appendix under reference below.

These figures have since been reconciled and the reconciliation statements availed for audit review. The Ministry's financial statements will consequently be amended during the preparation of the 2016/2017 financial year's accounts and will be availed for audit review.

Committee Observation and Finding

Discrepancies in cash book balances in the financial statement were eventually reconciled and shared with the Auditor-General. The matter was marked as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that any variances captured in financial statements are reconciled promptly.

96.2 Unauthorized/Dormant Bank Accounts

Audit of financial records maintained at the Kenya Embassy Berlin has revealed that the Embassy operates three (3) fixed deposit bank accounts with a combined account balance of Kshs.38,817,092.00 as follows: -

A/C NO.	Amount (Euro)	Amount (Kshs.) @117.50
266014001	90,358.23	10,617,092.00
2660140011	140,000.00	16,450,000.00
2660140013	100,000.00	11,750,000.00
Total	**330,358.23**	**38,817,092.00**

Although the purpose and the nature of transactions relating to these accounts have not been explained, the Ministry has explained that the former Financial Attache' disappeared with crucial financial records.

Submission by Accounting Officer

The accounting officer admitted that the Kenyan mission in Berlin operated 3 accounts detailed in the table below, which have remained dormant for some years now: -

A/C NO.	A/C Type	Balance (EUROS)	Balance (KSHS.) 1 Euro=117.50 Kshs.	Source of Funding
0266014001	Current	90,358.23	10,670,092	Development
0266014011	Deposit	140,000	16,450,000	Development
0266014013	Deposit	100,000	11,750,000	Recurrent

TOTAL		**330,358.23**	**38,817,092**	

- The Current Account No. 0266014001 was opened as special purpose account for processing and handling project monies during the construction of the Mission's Official residence. Now that the construction was finalized the account remained dormant awaiting the next construction project. The account has outlived its original purpose and has been recommended for closure. The ministry is awaiting implementation of a report from an inspection recently conducted on this mission before the Account closure is done.
- The other 2 accounts (02660140011 and 02660140013) were opened/operated as deposit accounts. These accounts remained dormant when the signatory Financial Attache deserted duty and left office without handing over these accounts to the new Financial Attache. These accounts have also outlived their original purpose and have been recommended for closure.
- Disciplinary action has been taken against the officer who un-procedurally opened/operated these accounts and who, thereafter, absconded duty resulting in loss of crucial financial documents. The officer has since been dismissed from service.

Committee Observations and Findings

i. **Disciplinary action was taken against the officer who unprocedurally opened and/or operated the said accounts and thereafter, absconded duty resulting in loss of crucial financial documents.**
ii. **The officer has since been dismissed from service. This was commendable.**

Committee Recommendation

The Directorate of Criminal Investigations (DCI) should move with speed and carry out investigations on the officer who opened and/or operated the said accounts and eventually absconded duty with a view to mounting prosecution, if evidence allows.

96.3 Outstanding Imprest

The financial statements for the year ended 30 June 2015 show that temporary and standing Imprests totaling Kshs.37,737,301.50 and Kshs.269,320.00respectively which ought to have been surrendered or otherwise accounted for,on or before 30 June 2015 were still outstanding as at that date.

Analysis of the outstanding imprest shows that outstanding imprest is a common trend in the Ministry's financial statement as follows:

Financial Year	Amounts (Kshs)
2012/2013	22,585,372.00

2013/2014	577,201.00
2014/2015	14,844,047.00

Although it is a requirement that imprest holders should account or surrender imprest within seven (7) working days after return to duty station, the Ministry has not explained reasons for long outstanding imprests.

In addition, the accounting officer has not recovered the outstanding imprest from the defaulting officer's salary with an interest; therefore, the Accounting Officer isin breach of the regulations on imprests.

Submission by Accounting Officer

The accounting officer admitted that it was true that as at the closure of the financial year under review the ministry's temporary and standing imprests stood at Kshs.14, 582,027.40 and Kshs. 262,020.00 respectively. These balances have since been recovered and/or accounted for leaving a balance of Kshs.333, 565.20for temporary and Kshs. 41,154.00 for standing imprests as at 10thFebruary, 2017.

The ministry is continuing to implement the following interventions with a view to managing the imprests: -

1. Monthly recoveries of the amounts un-surrendered by the defaulters.
2. Writing to ministries and other government agencies to deduct and remit the funds for transferred officers.
3. Seeking National Treasury's authority to write off the un-surrendered amounts for the deceased officers and where the administrators of their estates are not able to service the imprests.
4. Liaising with the Attorney General to institute legal redress against defaulters who have exited service with un-surrendered imprests.
5. The ministry has implemented the provisions of the Public Financial Management (PFM) Act requiring interest charge on imprests as a further deterrent factor.

Committee Observations and Findings

The Committee noted with satisfaction that the Accounting Officer:

- **i. Had undertaken monthly recovery of un-surrendered impreststfrom the defaulters.**
- **ii. Had written to Ministries and other government agencies to deduct and remit the funds for transferred officers.**

iii. **Had sought the National Treasury's authority to write off the un-surrendered amounts in relation to deceased officers and where the administrators of their estates are not able to service the imprests.**

iv. **Had instructed the Attorney General to institute legal action against defaulters who have exited service with un-surrendered imprests.**

Committee Recommendation

Accounting Officers must, at all times, ensure that the rules and guidelines governing the management of imprest are implemented to the letter.

96.4 Bank Reconciliation Statements

1. Examination of the Agency bank statement at the Kenya Embassy in Pretoria for the month of May 2015, revealed that deposits of Kshs.31,817,748.20 (R 3,230,228.24), were received in the bank account but were neither posted in the cash book nor reflected in the bank reconciliation statement.
2. Examination of the Recurrent Account Reconciliation statement for the month of May 2015 revealed that payments in bank statement not in cashbook amounting to Kshs.10, 096,743.90 (R 1, 025,050.14) included in that month's reconciliation statement were excluded from the month of June 2015 reconciliation statement. No documentary evidence was provided to support the clearance or exclusion of the balances from the June 2015 reconciliation statement.
3. The Bank Reconciliation Statements for the mission for both Recurrent and Agency Accounts for the month of June 2015 revealed long outstanding reconciling items amounting to Kshs.54, 442,864.09 which have not been cleared. As a result, the accuracy of the bank reconciliation statements as at 30 June 2015 could not be ascertained.

Submission by Accounting Officer

The accounting officer admitted that it was true that during the audit exercise the Kenyan embassy in Pretoria had a backlog on their bank reconciliation statements as this coincided with the period of new postings to the station. The reconciliation statements were later updated and availed for audit review.

Committee Observations and Findings

i. **The Auditor General had submitted that the matter had been resolved as reconciliations had been done.**

ii. **The Committee marked the matter as resolved.**

6.0. MINISTRY OF HEALTH

FINANCIAL STATEMENTS FOR VOTE 108

Mr. Peter Tum the Accounting Officer for Vote 108, the Ministry of Health accompanied by Mr. Kilu A.M; DCHAO, Dr. Izau Odongo; DDMS, Mr. Moranga Morekwa; Under Secretary, Mr. Peter Odundo; Senior Chief Finance Officer, Dr. Joseph M. Kiraita; DHAU, M.r Manase Bocha; CCO, Mr. Joel K. Sego; Chief Accountant, Mr. Richard Yator; CSCMO, Mr. Kamau Maina; Community Officer appeared before the Committee on 28th June 2018 to adduce evidence on the audited Financial Statements of Vote 108 the Ministry of Health for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

97. Cash and Cash Equivalents

97.1 Un-surrendered Old Deposit Balances from Former Ministries

Included in the statement of financial assets as at 30 June 2015 is cash and cash equivalents amount of Kshs.93,169,865.50 out of which a deposit amount of Kshs.9,662,670.95 had no supportive documentary evidence. In the absence of supporting documents, the accuracy and validity of the deposits' balance could not be confirmed. Further information revealed that deposits totaling Kshs.10, 956,114,687 that were held in former Ministries of Medical Services and Ministry of Public Health and Sanitation (which merged to form Ministry of Health) were never transferred to the new deposit account contrary to Treasury Circular No.AG/CONF.17/01/65 dated September, 2013 which required deposits in former Ministries to be analysed and transferred to new accounts.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that included in the statement of financial assets as at 30 June 2015 is cash and cash equivalent amount of Kshs.93,169,865.50 out of which a deposit amount of Kshs.9,662,670.95 had no documentary evidence at the time of review. The Ministry has since analyzed and reconciled the two books of accounts; and we wish to report that the actual balance in the books is Ksh.44,484,475.75 as per attached statement of accounts and the same have been submitted to The National Treasury for concurrence and subsequent clearance by the Office of the Auditor General.

It was also true that an amount of kshs.10, 956,114,687 is accumulated balances of former Ministries of Medical Services and Public Health and Sanitation that is still outstanding. The unsurrendered deposit balances relates to old balances of the former Ministries of Public Health and Sanitation and Medical Services respectively. The Ministry has since analyzed and reconciled the two books of accounts and submitted the same to the office of the Auditor General for clearance.

Committee Observations and Findings

i. **The unsurrendered deposit balances of kshs.10, 956,114,687 relates to old balances of the former Ministries of Public Health and Sanitation and Medical Services respectively. The Ministry has since analyzed and reconciled the two books of accounts and submitted the same to the office of the Auditor General for clearance.**

ii. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

97.2 Bank Reconciliation – Deposit Account

The bank reconciliation statement for the deposit cash book as at 30 June 2015 reflects payments in cash book not recorded in the bank statement totaling Kshs.3, 239,840.34 which include an amount of Kshs.796, 853.80 in respect of stale cheques. No reason has been given for failure to replace the cheques or have them credited back in the cash book. The statement also reflects receipts in the bank statement not recorded in the cash book totaling Kshs.14, 259,210.45 out of which an amount of Kshs.38, 176 has been outstanding for more than six months. No reason has been given for delay in entering the amount in the cash book. The statement further reflects payments in bank statement not in cash book totaling Kshs.3, 088,959.25 out of which Kshs.2, 160,701 has been outstanding for more than six months. No reason has been provided for the delay in recording these payments in the cash book. Also the statement reflects receipts of Kshs.2, 424,362.64 in the cash book but not recorded in the bank statement. As in the previous instance, no explanation has been given for the inordinate delay.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the bank reconciliation statement for the deposit cash book as at 30 June 2015 reflected payments in cash book not in the bank statement totaling Kshs.3, 239,840.34 which included an amount of Kshs.796, 853.80 in respect of stale cheques. Further, the statement also reflected receipts in the bank statement not recorded in the cash book totaling Kshs.14,259,210.45 out of which an amount of Kshs.38,176.00 has been outstanding for more than six months. The statement further reflects payments in bank statement not in cash book totaling to Kshs.3, 088,959.25 out of which Kshs.2, 160,701 has been outstanding for more than six months.

Also the statement reflects receipts of Kshs.2, 424,362.64 in the cash book but not recorded in the bank statement.

The Department reported that an amount of Ksh.796, 853.80 in respect of stale cheques were reversed in the cashbook and the balance of Ksh.2, 442,986.84 was cleared by the bank in the month of July 2015.

All receipts in bank statements not recorded in cash book of Kshs14, 259,210.45 were recognized in the cashbook and bank balances adjusted for the year ended 30th June 2015.

Receipts in cash book of Kshs.2,424,362.64 not in bank statements refers to Cheques deposited at the end of the financial year which had not cleared in the Bank statement at the time of closing the financial year. I wish to report that these uncleared cheques were fully reconciled in the subsequent month of July 2015**.**

Committee Observations and Findings

i. **The explanation by the Accounting Officer that receipts in cash book of Kshs.2,424,362.64 not in bank statements refers to Cheques deposited at the end of the financial year which had not cleared in the Bank statement at the time of closing the financial year and were fully reconciled in the subsequent month of July 2015 was sufficient.**

ii. **The Committee marked the matter as resolved.**

Committee Recommendations

i. **The Accounting Officer during the period under review, Dr. Kahdijah Kassachom, should be reprimanded for failure to record in cash book receipts worth Kshs14, 259,210.45 pursuant to the provisions of section 74(4)(a) of the Public Finance Management Act, 2012.**

ii. **Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within threemonthsaftertheendofeachfinancialyear pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.**

97.3 Bank Reconciliation - Recurrent Account

The bank reconciliation statement for the recurrent cash book as at 30 June 2015 reflects payments in cash book not recorded in the bank statement (unpresented cheques) totaling Kshs.589,908,796 which include stale cheques amounting to Kshs.226,185,755.23. No reason has been given for failure to replace or reverse them in the cash book. The statement also reflects receipts in the bank statement not recorded in the cash book totaling Kshs.230, 952,169.15 out of which Kshs.187, 606,758 has been outstanding for more than six months. No reason has been given for delay in updating the cash book. The statement also reflects payments in bank statement not in cash book totaling Kshs.751, 403,494.35 out of which Kshs.547, 394,511.13 has been outstanding for more than six months. No reason has been provided for the delay in recording these payments in the cash book. Also, the statement reflects receipts of Kshs.49, 703,450.78 in the cash book but not recorded in the bank statement. As in the previous instance, no explanation has been given for the inordinate delay.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that bank reconciliation statement for the Recurrent Cash Book as at 30 June 2015 reflects payments in cash book not in the bank statement (unpresented cheques) totaling Kshs.589,908,796 which included uncleared effects amounting to Kshs.226,185,755.23.

It was also true that the statement reflects receipts in the bank statement not recorded in the cash book totaling Kshs.230,952,169.15 out of which kshs.187,606,758 has been outstanding for more than six months. The statement also reflects payments in bank statement not in cash book totaling to Kshs.751,403,494.35 out of which Kshs.547, 394,511.13 has been outstanding for more than six months. The statement further reflects receipts of Kshs.49, 703,450.78 in the cash book but not recorded in the bank statement.

Mr. Chairman, the stale cheques amounting to Ksh 226,185,755.23 out of the total payments in Cashbook not in Bank Statement of Ksh 589,908,796 were reversed in the cashbook and the cashbook balances adjusted accordingly. The remaining balance of Ksh 363,723,040.77 was cleared in the month of July 2015.

Further, Ksh.230, 952,169.15 being the total amount of receipts in the Bank Statement not in the cashbook were determined and recognized in the cashbook as at 30 June 2015.

Additionally, payments in the Bank not in the Cashbook totaling Ksh 751,403,494.35 were posted in the cashbook as at 30th June 2015 thus correcting the anomaly.The Ksh.49, 703,450.78 in the cashbook not in bank statement were cleared/reconciled in the month of July 2015.

Committee Observations and Findings

i. **Payments in the Bank not in the Cashbook totaling Kshs 751,403,494.35 were posted in the cashbook as at 30th June 2015 thus correcting the anomaly.**
ii. **The Kshs.49, 703,450.78 in the cashbook not in bank statement were cleared/reconciled in the month of July 2015.**
iii. **The Accounting Officer did not give an explanation for the inordinate delay for submitting bank reconciliations.**
iv. **The Committee marked the matter as resolved.**

Committee Recommendations

i. **The Accounting Officer during the period under review, Dr. Kahdijah Kassachom, should be reprimanded for failure to record in cash book bank payments worth Kshs 751,403,494.35 pursuant to the provisions of section 74(4)(a) of the Public Finance Management Act, 2012.**

ii. **Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within threemonthsaftertheendofeachfinancialyear pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.**

97.4 Bank Reconciliation – Development Account

The bank reconciliation statement for the development cash book as at 30 June, 2015 reflects payments in cash book not recorded in the bank statement (unpresented cheques) totaling Kshs.231,361,480.77, which include stale cheques amounting to Kshs.196,861,199.10. The cheques have not, however, been replaced or reversed in the cash book and no reason has been given for the anomaly.

The statement also reflects receipts in the bank statement not recorded in the cash book totaling Kshs.12, 201,878.40 out of which Kshs.1, 329,835.85 has been outstanding for more than six months. No reason has been given for delay in updating the cash book.

The statement also reflects payments in bank statement not in cash book totaling Kshs.233, 066,610.58 out of which Kshs.228, 732,931.10 has been outstanding for more than six months. No reason has been provided for the delay in recording these payments in the cash book. Further, the statement reflects receipts of Kshs.5, 373,247.05 in the cash book but not recorded in the bank statement. As in the previous instance, no explanation has been given for the inordinate delay.

Consequently, the cash and cash equivalents balance of Kshs.93, 169,865.50 as at 30 June 2015 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the bank reconciliation statement for the development cash book as at 30 June 2015 reflects payments in cash book not in bank Statement (unpresented cheques) totaling Kshs.231, 361,480.77 comprising of uncleared effects amounting to Kshs.196, 861,199.10 which had not been replaced or reversed. The statement further reflects receipts of kshs.12,201,878.40, included in this figure is an amount of kshs.1,329,835.85 outstanding for more than six months as at 30th June 2015. The statement also reflects payments in cash book amounting to kshs.233, 066,610.58, part of which kshs.228, 732,931.10 remain outstanding for more than six months. In addition, the statement also reflects receipts of kshs.5, 373,247.05 in the cashbook not recorded in bank statement. The stale cheques in cashbook not in the bank statement totaling Ksh.196, 861,199.10 were reversed back into the cashbook as at 30th

June, 2015. The balance of Ksh.34, 500,281.67 represents uncleared effects as at 30th June 2015 which were cleared in the subsequent month of July 2015.

The receipts totaling Ksh.12, 201,878.40 being receipts in Bank statement not in the cashbook were recognized in the cashbook as at June 2015 and the adjusted balances carried down accordingly. All the payments in bank statement not in cashbook totaling Ksh.233, 066,610.58 were determined and posted in the cashbook as at 30th June,2015 and the adjusted cashbook balance carried down correctly. Receipts in Cashbook not in bank statement totaling Ksh.5, 373,247.05 were cleared and reconciled fully in the subsequent month of July, 2015.

Committee Observations and Findings

i. **The Accounting Officer did offer an explanation for the inordinate delay in updating the cash book.**

ii. **The explanation by the Accounting Officer that the payments in bank statement not in cashbook totaling Kshs. 233,066,610.58 were determined and posted in the cashbook as at 30th June, 2015 and the adjusted cashbook balance carried down correctly was satisfying.**

iii. **The Committee marked the matter as resolved.**

Committee Recommendations

i. **The Accounting Officer during the period under review, Dr. Kahdijah Kassachom, should be reprimanded for failure to record in cash book receipts worth Kshs. 233,066,610.58 pursuant to the provisions of section 74(4)(a) of the Public Finance Management Act, 2012.**

ii. **Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within threemonthsaftertheendofeachfinancialyear pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.**

98. Outstanding Imprest

The statement of assets and liabilities reflects outstanding imprests totaling Kshs.26, 818,240 which ought to have been accounted for on or before 30 June 2015 but were still outstanding. It was also observed that various officers were issued with new imprests before accounting for the previous ones contrary to Government Financial Regulations and Procedures governing the issue of imprest.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the statement of financial assets reflected unsurrendered Imprests of Kshs.26, 818,240.00. The outstanding imprest Kshs.26, 818,240.00 as at the time of revision of the financial statements for the year under review was subsequently accounted for in the financial year 2015/2016.

Committee Observations and Findings

i. **The explanation by the Accounting Officer that outstanding imprest Kshs.26, 818,240.00 as at the time of revision of the financial statements for the year under review was subsequently accounted for in the financial year 2015/2016 was satisfying.**

ii. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

99. Authority to Incur Expenditure Issued to KEMRI

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.1, 789,036,840.95. Included in this is an amount of Kshs.224, 000,000 in respect of Authority to Incur Expenditure issued to KEMRI during the year under review. However, no expenditure returns have been availed for audit verification in support of this expenditure. Consequently, it has not been possible to confirm the propriety of the expenditure of Kshs.1, 180,986.824.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments for the year ended 30 June 2015 reflected acquisition of Assets of Kshs.1, 180,986,824 which included Kshs.6, 538,000 in respect of Authority to incur Expenditure (AIE) issued to the Officer in charge of Radiation Protection Board-Kisumu and kshs.224, 000,000 disbursed as research grants to KEMRI respectively. The grants amounting to Ksh 224,000,000 comprised the first and second allocation to KEMRI for research grants voted in Item-3111403(Research).In the budgetary classification process these funds were categorized under Acquisition of Assets instead of Transfers to other government entities-Item-2630101(current grants). As per the Government Financial Statistics (GFS) classification allocations for Research grants are captured in the Budget as Item 3111403 while in IPSAS classification it is captured as Acquisition of Assets.

Committee Observations and Findings

i. **Kshs.224, 000,000 was disbursed as research grants to KEMRI**

ii. **Government Financial Statistics (GFS) classification allocations for Research grants are captured in the Budget as Item 3111403 while in IPSAS classification it is captured as Acquisition of Assets.**

iii. **The explanation by the Accounting Officer that no expenditure returns were availed for audit verification because the amount of Kshs 224,000,000 were reported as research grants voted in Item-3111403(Research) to KEMRI was satisfying.**

iv. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

100. Unsupported Expenditure

The statement of receipts and payments further reflects total expenditure of Kshs.39, 281,413,214. Included in this balance is expenditure amounting to Kshs.178, 025,962 whose payment vouchers and other related supporting records were not availed for audit review as detailed in the following table.

In the absence of supporting payment vouchers and other records, the propriety of the expenditure of Kshs.178, 025,962 forming part of the total expenditure of Kshs.39, 281,413,214 in the statement of receipts and payments could not be confirmed.

Component in financial statements	**Sub component**	**Nature of expenditure**	**Total Component amount (Kshs**	**Sub component amount (Kshs)**	**Supported (Kshs)**	**Unsupported (Kshs)**
Non-current assets	Moi Teaching and Referral Hospital	Civil Works	1,180,986,824	225,177,436	92,524,945	12, 290, 920
Non-current assets	Project management unit	Civil Works				51, 092, 998
Non-current assets	District health services	Civil Works				48, 888, 303
Non-current assets	Mental health services	Civil Works				20, 377, 270
Non-current assets	National Quality Control	Equipment				20, 614, 321

	Laboratory			669,081,288	623,707,817	
Non-current assets	Spinal Injury Hospital	Equipment				24, 759, 150
Total			**1,180,986,824**	**894,258,724**	**716,232,762**	**178,025,962**

In the absence of supporting payment vouchers and other records, the propriety of the expenditure of Kshs.178, 025,962 forming part of the total expenditure of Kshs.39, 281,413,214 in the statement of receipts and payments could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments for the year ended 30 June 2015 reflects total expenditure balance of Kshs.39,281,413,214 which Included an expenditure amounting Kshs.178,025,962.00 whose payment vouchers and other related records were not availed for audit review as detailed below:-

Component in F/S	**Sub component**	**Un-supported Balances (Kshs)**
Non-Current Assets	MTRH	12,290,920.00
Non-Current Assets	Project management unit	51,095,998.00
Non-Current Assets	District health services	48,888,303.00
Non-Current Assets	Mental Health services	20,377,270.00
Non-Current Assets	NQCL	20,614,321.00
Non-Current Assets	Spinal injury Hospital	24,759,150.00
TOTAL		**178,025,962.00**

It was true that the payment documents to support the expenditures listed above were not availed in time for audit verification. However, the Ministry thereafter provided the payment vouchers for audit review to confirm the authenticity of the Ksh.178, 025,962 forming part of the total expenditure of Kshs.39, 281,413,214 as indicated in the Statement of Receipts and Payments.

Committee Observations and Findings

i. **The explanation by the Accounting Officer that the Ministry provided the payment vouchers for audit review to confirm the authenticity of the Ksh.178, 025,962 forming part of the total expenditure of Kshs.39, 281,413,214 as indicated in the Statement of Receipts and Payments was satisfying.**

ii. **The Committee marked the matter as resolved.**

Committee Recommendations

i. **The Accounting Officer during the period under review, Dr. Kahdijah Kassachom, should be reprimanded for failure to provide payment vouchers for audit review to confirm the authenticity of expenditure totaling Ksh.178, 025,962 pursuant to the provisions of section 74(4)(a) of the Public Finance Management Act, 2012.**

ii. **Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within threemonthsaftertheendofeachfinancialyear pursuant to the provisions of section 81(4) of the Public Finance Management Act, 2012.**

101. Pending Bills

Records maintained by the Ministry of Health indicate that bills totaling Kshs.4, 791,655,574 were not settled during the year 2014/2015 but were instead carried forward to 2015/2016. Had the bills been paid and the expenditure charged to the account for 2014/2015 the statement of receipts and payments for the year would have reflected an increased deficit of Kshs.4,869,625,142 instead of Kshs.77,969,567.75 shown in the statement of receipts and payments.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the Ministry reported Pending bills amounting to Ksh4, 791,655,57487 for financial year 2014/15. It is also true that the Ministry reported a deficit of Ksh. 77,969,567.75 in the financial year under review.

However, the total budget for the Ministry in the financial year 2014/15 amounted to Ksh. 42,885,254,017, comprising of Development Vote –Ksh.17,487,964,921and Recurrent Vote-Ksh.25,397,289,096. There was an exchequer under issue; and if the Ministry would have received the full exchequer for the Recurrent and Development votes and collected the Appropriation-In-Aid for both development and recurrent votes, then a surplus would have been realized of Ksh.8,771,113,840.90, thus would have enabled the Ministry to pay all the pending bills**.**

Committee Observations and Findings

i. **The explanation by the Accounting Officer that the total budget for the Ministry in the financial year 2014/15 amounted to Kshs. 42,885,254,017, comprising of Development Vote –Kshs. 17,487,964,921 and Recurrent Vote-Kshs. 25,397,289,096 and therefore, the Ministry was not able to settle pending bills was not vague.**

ii. **The matter remains unresolved.**

Committee Recommendations

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

102. Stalled Project - Proposed Upgrading of Othaya District Hospital Phase I

As previously reported, the Ministry awarded a contract for the upgrading of facilities at Othaya Sub District Hospital to a local construction firm at a price of Kshs.436,300,798.80 which was later revised to Kshs.501,745,918.50. The initial completion period was 85 weeks but was extended to 123 weeks with new completion date being 25 October, 2012. A status report dated 21 February, 2014 indicates cumulative payments of Kshs.501,745,917.70 representing 99.9 percent of the revised contract sum of Kshs.501,574,918.70. At the time of the audit, 192 weeks had elapsed, which was 69 weeks over and above the contract period of 123 weeks. The Ministry reported an expenditure of Kshs.3,911,981 for construction of Othaya sub-district hospital which accumulated to Kshs.578,542,747 as at 30 June 2015 which, when compared against the initial contract value of Kshs.436,300,798 gives rise to a variation of Kshs.142,241,948 which is about 33percent that has not been supported. It was further noted that the above variation excludes a 10percent reduction in scope of work which if considered will give variation of upto 43percent at the close of the financial year. No project progress reports have been availed for audit review. Despite this apparent overpayment, the following works were outstanding:

(a) Floor tilling and grouting (b) Wall tilling (c) Window glazing (d) Window stays and fasteners (e) Ceiling (f) Fixing of door leaves, locks, and glazing (g) Internal and external painting (h) Ramp and staircase finishes (i) Worktop and counter finishes (j) Road drainage (k) Medical gas installation

An inspection of the project in November 2015 revealed that the contractor and subcontractors were not on site. Although it is indicated that the project had been terminated on a mutual agreement no documentary evidence was made available for audit verification. Further, no evidence has been provided that the performance guarantee had been recalled and discharged against uncompleted works.

Further information shows that the directorate gave an estimate for completion of outstanding works as Kshs.272, 500,000. Though the Ministry put a request to National Treasury for funding, Treasury responded by advising that health was a devolved function and therefore Nyeri County should take over. Consequently, it was not possible to ascertain whether the Government obtained value for money for the expenditure of Kshs.578, 542,747.

Submission by Accounting Officer

Unsupported variation over the contract sum of Kshs. 436,300,798.

The Accounting Officer submitted that it was true that the cumulative expenditure on the project rose to Kshs. 578,542,747 as at 30 June 2016 which is 33 percent above the contract sum of Kshs. 436,300,798. It is also true that there was a 10 percent reduction in scope of work.

It's worth noting that the contract variation was informed by incomplete quantification of works at the design stage. Evidence of this is the project financial appraisal report by the State Department for Public Works which shows that works captured in the Bill for Quantities amounted to Kshs. 408,033,463.80 while the actual work done before termination of contract was 578,371,743.97.

Kshs. 501,574,915.25 was paid within the revised contract sum Kshs.501,745,918.50 while Kshs. 76,796,828.72 was a direct payment made on the basis of the remeasurement of works and final project account of submitted to the Ministry on 30th April 2014 by the State Department for Public Works (project managers). The reduction of scope of works was approved by the Ministerial Tender Committee on the advice of the State Department for Public Works.

Outstanding works despite the apparent overpayment

It is true that the following works were outstanding despite the payment of Kshs. 578,542,747.

a) Floor tiling and grouting

b) Wall tiling

c) Window glazing

d) Window stays and fasteners

e) Ceiling

f) Fixing of door leaves, locks, and glazing

g) Internal and external painting

h) Ramp and staircase finishes

i) Worktop and counter finishes

j) Road drainage

k) Medical gas installatio

The outstanding works were not included in the financial appraisal report. as it covered work already done by the contractors and not the full scope of works. The amount was computed to inform termination of contract as further progress on implementation of the project could not be made. With the termination of the contract, outstanding works were to be undertaken as a new contract and the State Department for Public Works gave an estimate of Kshs. 272, 500.00.

Evidence of mutual termination of contract

Evidence of mutual termination of the contract consists of the following documents:

- Legal opinion by Attorney General
- Extract of minutes of the Ministerial Tender Committee that adjudicated the termination by mutual consent
- Letter of MTC communication to the responsible department

This documentation on termination was availed for audit review.

Contract for Kshs. 141,959,487

The accounting officer submitted that it was true that Lunao Enterprises was awarded a contract of Kshs. 141,959,487 to partially address the outstanding works to make the hospital operational. The contract was not for full completion of the hospital but for partial completion to enable utilization of parts of the new hospital (outpatient services and limited inpatient services). As rightly observed in the query, this was a new contract different from the initial one which was terminated by mutual consent. The new contract sum cannot therefore be loaded onto the earlier contract for the purpose of calculating variation. The amount was not fully utilized anyway as the contract commenced on 14/05/2015 close to end of the financial year and only Kshs. 20 million of the available funding was utilized.

Value for money for the expenditure of Kshs. 578,542,747

The competent authority for determining value for money for public construction projects is the State Department for Public Works. The following summary extracted from the remeasurement and Final Account submitted to the Ministry on 30th April 2014 by the State Department for Public Works indicates there was value for money:

Totals as per Bill of Quantities (Kshs.)	**Total Remeasurement of work done – Final Account (Kshs.)**	**Amount Paid To date (Kshs.)**	**Amount now due for payment (Kshs.)**
408,033,463.80	578,371,743.97	501,574,915.25	76,796,828.72

The financial appraisal report is attached

In addition, all payment certificates for the project originated from the State Department for Public Works and have justifications to show value for money.

However, the Ministry is of the view that technical management of the project could have been done in a better manner and has continued to engage the National Treasury and the State Department for Public Works to translate the project to service delivery for Kenyans.

Recall of performance bond

The performance bond of the initial contractor could not be recalled and discharged against the uncompleted works because termination of the project was by mutual consent as recommended by the Attorney General**.** Recall of performance bond becomes applicable if the Ministry cancels the contract for breach on the part of the contractor.

Committee Observations and Findings

i. **The explanation by the Accounting Officer that the contract variation was informed by incomplete quantification of works at the design stage was not satisfying as it is the duty of the procuring entity to prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct andcompletedescriptionofwhatistobeprocuredandthatallowforfairand open competition among those who may wish to participate in the procurement proceedings pursuant to the provisions of section 32 of the Public Procurement and Disposal Act, 2005.**

ii. **The works appeared to have been structured as two or more procurements for the purpose of avoiding the use of a procurement procedure contrary to section 30 of the Public Procurement and Disposal Act, 2005.**

iii. **Outstanding works worth an estimate of Kshs. 272, 500.000.00 were never factored during quantification of works at the design stage and within the overpayment of Kshs. 578,542,747.**

iv. **Lunao Enterprises was awarded a contract of Kshs. 141,959,487 to partially address the outstanding works to make the hospital operational despite the expenditure of Kshs. 578,542,747 incurred by the Ministry at the point of awarding the contract.**

v. **There was no value for money with respect to expenditure of kshs.501, 574,915.25 incurred for the proposed upgrading of Othaya District Hospital Phase I.**

vi. **The Accounting Officer during the period under review was Ms Khadijah Kassachom.**

Committee Recommendations

i. **The EACC and DCI should investigate the entire procurement process, the public officers and the construction firm involved in the proposed upgrading of Othaya**

District Hospital Phase I with a view to establishing whether there was a breach of the procurement laws and allow for prosecution if evidence permits.

ii. **The Accounting officer during the period under review, Dr. Khadijah Kassachom must liaise with substantive Accounting Officer to provide an explanation to the Auditor General for incurring wasteful expenditure on behalf of the government contrary to s.68 (2)(a) of the Public Finance Management Act, 2012 within three months of adoption of this report.**

iii. **Where no satisfactory explanation is not provided to the CS National Treasury and Auditor General within the stipulated time, Ms Khadijah Kassachom should be surcharged with Kshs. 93,541,451.45 being expenditure incurred without lawful authority pursuant to the provisions of section 202 of the Public Finance Management Act, 2012 .**

Other Matter

103. Budget Control and Performance

The Ministry of Health had an approved total budget of Kshs.54, 107,049,563.00 voted for the financial year 2014/2015 comprising of Kshs.29, 259,165,573 for recurrent vote and Kshs.24, 847,883,990.00 for development vote. This was an increase of Kshs.8, 893,595,443.00 or approximately 19.7 percent compared to financial year 2013/2014.

Item	Budgeted Allocation 2014/15 (Kshs)	Actual 2014/15 (Kshs)	Under Absorption (Kshs)	Absorption rate percent
Recurrent	29,259,165,573	23,609,440,324	5,649,725,249	80
Development	24,847,883,990	15,671,972,890	9,175,911,100	63
Total	**54,107,049,563**	**39,281,413,214**	**14,825,636,349**	

Although the recurrent budget absorption and utilization rate was above three quarters i.e. 80 percent, the budget utilization rate for the development budget was just slightly above half i.e. 63 percent. The implication of this is that almost half of the budgeted development programmes were not implemented.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry of Health had an approved total budget of Kshs.54, 107,049,563 voted for the financial year 2014/2015 comprising of

Kshs.29, 259,165,573 for the recurrent vote and Kshs.24, 847,883,990.00 for the development vote. This was an increase of Kshs. 8,893,595,443.00 (19.7percent) compared to the financial year 2013/2014.

The budget absorption was as follows:

Item	Budgeted Allocation 2014/15 (Kshs)	Actual 2014/15 (Kshs)	Under Absorption (Kshs)	Absorption rate percent
Recurrent	29,259,165,573	23,609,440,324	5,649,725,249	80
Development	24,847,883,990	15,671,972,890	9,175,911,100	63
Total	**54,107,049,563**	**39,281,413,214**	**14,825,636,349**	

A significant portion of the development budget is donor support and it is mainly captured as Appropriations-In-Aid (AIA). The development partners make direct payments for the activities that are funded by them and they are required to submit to the Ministry the expenditure returns to enable us capture the same in our Books of Account. In most cases, the Development Partners do not submit the expenditure returns thus resulting in under-collection of AIA and under-expenditures.

Committee Observations and Findings

i. **The explanation by the Accounting Officer that a significant portion of the development budget is donor support is captured as Appropriations-In-Aid (AIA) and the Development Partners do not submit the expenditure returns thus resulting in under-collection of AIA and under-expenditures was satisfying.**

ii. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that Donors adhere to reporting standards outlined under the provisions of section 48(1) (f) of the Public Finance Management Act, 2012.

104. Ethnic Composition of Staff

The Ministry did not provide the summary of ethnic composition of its staff. It was therefore not possible to confirm whether the Ministry has complied with Section 7 (1) and (2) of the National Cohesion and Integration Act, 2008 which requires all public establishments to seek to represent the diversity of the people of Kenya in employment of staff and that no public establishment shall have more than one third of its establishment from the same ethnicity community.

Submission by Accounting Officer

Ethnicity composition of staff

The Accounting Officer submitted that it was true that the Ministry did not provide summary of staff on the basis of ethnicity as provided for by the National Cohesion and Integration Act. The summary is now available for audit review (Appendix V).

Committee Observations and Findings

i. **The Accounting Officer submitted a summary of the ethnic composition of staff under paragraph 104 for review and verification by the Auditor General;**

ii. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2) (l) of the Public Finance Management Act, 2012.

GAVI HEALTH SYSTEMS STRENGTHENING PROJECT

Basis for Disclaimer of Opinion

105. Deficit brought forward

As reported in 2013/14 audit report, the statement of receipts and payments reflected a balance of negative Kshs.2, 604,445.60 as at 30 June, 2013 while the cash book balance carried forward as at the same time reflected a bank balance of Kshs.544, 410.65. A review of the position in the financial year 2013/2014 showed that the deficit was cleared during that year. However, no documentary evidence was availed to explain how the deficit of Kshs.2, 604,445.60 was cleared. It is therefore not possible to confirm the validity of these balances in the financial statements.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the statement of receipts and payments for the year ended 30th June 2013 reflected negative balances of Ksh.2, 604,445.60.As at June 2013/14 the bank balance reflected Ksh.544, 410.65. The aforementioned deficit was cleared in the book of accounts through a journal entry to reverse a GOK expenditure of Ksh 3,148,856 of GOK charged to the GAVI HSM project erroneously. The project was closed at the end of April 2013. The Ministry is reconciling the project closure account so as to clear the balances.

Committee Observations and Findings

i. **The explanation by the Accounting Officer that the aforementioned deficit was cleared in the book of accounts through a journal entry to reverse a GOK**

expenditure of Kshs 3,148,856 of GOK charged to the GAVI HSM project erroneously was sufficient.

ii. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

106. Bank Balances

As reported in 2013/2014, the statement of assets and liabilities as at 30 June 2015 reflected a bank balance of Kshs.644, 993. However, the bank confirmation certificate and bank reconciliation statement in support of the balance of Kshs.644, 993 have not been availed for audit review. Consequently, the validity and accuracy of the bank balance of Kshs.644, 993.00 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities as at June, 2013 reflected a bank balance of Kshs. 644, 993. It is also true that during the review of the documents to support the financial statements for the year 2014/15, the bank reconciliation statement was not availed for audit verification. However, the Ministry has provided for audit review the bank reconciliation statement to support the bank balance of Kshs. 644, 993.

Committee Observations and Findings

i. **The explanation by the Accounting Officer that the Ministry has provided for audit review the bank reconciliation statement to support the bank balance of Kshs. 644, 993.**

ii. **The Committee marked the matter as resolved.**

Committee Recommendations

i. **The Accounting Officer during the period under review, Dr. Kahdijah Kassachom, should be reprimanded for failure to provide the bank reconciliation statement to support the bank balance of Kshs. 644, 993 within the stipulated timelines pursuant to the provisions of section 74 (4) (a) of the Public Finance Management Act, 2012.**

ii. **Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.**

7.0 MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

FINANCIAL STATEMENTS FOR VOTE 111

Ms. Miriam El Maaway, the Accounting Officer for Vote 111, the Ministry of Lands, Housing and Urban Development accompanied by Mr. Samson Ongalo; Senior Assistant Accountant General, Mr. Nelson Mose; Senior Finance Officer, Mr. Eliud Matira; Head Supply Chain Management appeared before the Committee on 16th February 2017, to adduce evidence on the audited Financial Statements of Vote 111 Ministry of Lands, Housing and Urban Development for the Financial Year 2014/2015. The minutes of the committee's Sittings and the submissions tabled by the accounting officer are annexed to this report.

Basis for Qualified Opinion

107. Fuel Consumption

Included in the use of goods and services balance of Kshs.2,843,785,974 in the statement of receipts and payments for the year ended 30 June 2015 is fuel, oil and lubricants amounting to Kshs.13,271,359. However, review of documents indicated that seven (7) payment vouchers totaling Kshs.2,812,723 for the purchase of fuel by the Ministry could not be confirmed due to lack of fuel registers. Further, payment vouchers totaling Kshs.4,515,020 in respect of supply of fuel oil, lubricants and cooking gas could also not be traced. In the circumstances, the propriety of the expenditure amounting to Kshs.7,327,743 included under the use of goods and services in the statement of receipts and payments for the year ended 30 June 2015, could not be confirmed.

Committee Observations and findings

The Committee observed that the matter was reported as resolved.

108. Inaccuracies in the Financial Statement

Included in the use of goods and services balance of Kshs.2,843,785,974 in the statement of receipts and payments for the year ended 30 June 2015 is expenditure for rentals of produced assets amounting to Kshs.122,010,912. Included in this expenditure is Kshs.19,343,501 which relates to office and general supplies and services but which was charged to rentals of produced assets. Consequently, the account totals for the office and general supplies and services and that of rentals of produced assets are misstated by Kshs.19,343,501 for the year ended 30 June 2015.

Committee Observations and findings

The Committee marked the matter as resolved.

109. Consultancy Services

Included under acquisition of non-financial assets in note 18 to the financial statements is expenditure for research, studies, project preparation, design and supervision amounting to

Kshs.631,999,169. However, eight (8) payment vouchers in respect of consultancy services under this item amounting to Kshs.198,016,041 and reflected in the general ledger were not availed for audit review. In the absence of the payment vouchers and other support documents, the propriety of the expenditure totaling Kshs.198,016,041 included in the acquisition of non-financial assets in note 18 to the financial statements for the year ended 30 June 2015 could not be confirmed.

Committee Observations and findings

The Committee marked the matter as resolved.

110. Construction and Civil Works

Included under note 18 to the financial statements, is construction and civil works balance of Kshs.7,080,434,098. This amount includes Kshs.526,324,508 being transfer to Kenya Municipal Project and which had not been remitted by the end of the financial year. In view of the above, it has not been possible to confirm the accuracy and validity of the balance for construction and civil works of Kshs.7,080,434,098 for the year ended 30 June 2015.

Committee Observations and findings

The Committee marked the matter as resolved.

111. Overhaul and Refurbishment of Construction and Civil Works

Included under acquisition of non-financial assets in note 18 to the financial statements is overhaul and refurbishment of construction and civil works of Kshs.851,818,580 as at 30 June 2015. Included in this figure are payments amounting to Kshs.437,221,281 for the construction of bus parks and stadiums across the country. However, information on the current status of these projects was not availed for audit review. Further, payment vouchers amounting to Kshs.58,681,166 were not availed. In addition, included in the amount is also a transfer of Kshs.117,000,000 whose supporting documents were not availed for audit review.

Under the circumstances, the balance for overhaul and refurbishment of construction and civil works of Kshs.851,818,580 could not be confirmed.

Committee Observations and findings

The Committee observed that the matter was reported as resolved.

112. Accounts Payable – Deposits and Retentions

The statement of assets reflects accounts payable – deposits and retentions of Kshs.1,726,622,234 as at 30 June, 2015. However, this figure does not include deposits from Urban Development Department and Department of Public Works amounting to Kshs.66,198,441 and Kshs.7,252,776 respectively. The Ministry has not explained these anomalies. Under the circumstances, it has not been possible to ascertain the accuracy of accounts payable - deposits and retentions amount of Kshs.1,726,622,234.

Committee Observations and findings

The Committee marked the matter as resolved.

113. Employment of Casuals

In 2014/2015 financial year, the Ministry engaged casuals to do various activities within the Ministry. Payment vouchers examined in respect of payments to casuals amounted to Kshs.16,538,000. However, the records available indicated that the approved expenditure for the same was Kshs.10,000,000 resulting to an over-expenditure of Kshs.6,538,000. The Ministry has not provided parliamentary approval for the excess expenditure.

Committee Observations and findings

The matter was reported as outstanding; Auditor General to examine information now submitted and report back to the Committee.

114. Purchase of Office Furniture and General Equipment

Purchase of office furniture and general equipment in note 18 to the financial statements stood at Kshs.145,276,445 as at 30 June 2015. However, schedules availed for audit review relate to meals and stationery amounting to Kshs.4,125,000. Further, two (2) adjustments by the Ministry of Land, Housing and Urban Development amounting to Kshs.60,430,875 were not explained nor payment vouchers produced for audit review. In the circumstances, the figure for purchase of office furniture and general equipment of Kshs.145,276,445 could not be confirmed.

Committee Observations and findings

The Committee marked the matter as resolved.

115. Summary of Fixed Assets

The financial statements for the year ended 30 June 2015 did not include a summary of fixed assets statement as an annex contrary to the prescribed reporting template as issued by Public Sector Accounting Standards Board. In the absence of this summary of fixed assets, the financial statements are not in compliance with the accounting standards.

Committee Observations and findings

The matter was reported as outstanding; Exercise of transfer of assets due to devolution process had hampered the process of preparation of asset register greatly but the Accounting Officer pledged to complete the exercise and report back in the next financial year.

116. Deposit Account

Included in the statement of assets as at 30 June 2015 is accounts payables – deposit and retentions balance of Kshs.1,726,622,234. Bank reconciliation statement in respect of this deposit balance includes Kshs.95,899,288 being receipts in cashbook not yet in the bank statement. Out of this amount, Kshs.63,761,571 has been outstanding since June 2014. The Ministry has not explained why the above monies had not been banked. In addition, the entire amount of Kshs.95,899,288 had not been included in the Board of Survey report as a part of the cash in hand as at 30 June 2015. Further, receipts in bank not in the cashbook amounting to Kshs.423,133,265.35 and payments in bank not in cashbook amounting to Kshs.121,551,619 were outstanding and no adjustment had been made in the cashbook. In the circumstances, it has not been possible to confirm the accuracy of accounts payables – deposits' and retentions balance of Kshs.1,726,622,234 in the statement of assets.

Committee Observations and findings

The matter was reported as unresolved. Auditor General to examine information submitted and report back to the Committee. Need to examine the errors reported to have been made on the cash books.

Other Matter

117. Office of the County Director of Housing – Nakuru

117.1 Irregularly Alienated Government Houses

The housing inventory records maintained by the County Director of Housing show that a total of 121 housing units of medium and high grade houses in Nakuru have changed ownership from Government to private. However, no records were provided regarding the disposal process and the amounts realized from the sale.

Committee Observations and findings

The matter was reported as unresolved. Auditor General to examine information submitted and report back to the Committee. The Accounting Officer to also liaise with her Counterpart in the Ministry of Housing so as to give a true position on the state of Government Grabbed Land.

117.2 Doubtful Cash Transactions

Examination of the expenditure records revealed that the Department made cash purchases amounting to Kshs.1,989,860 contrary to the provisions of the procurement regulations. However, these items were taken on charge and issued out to user section. The Department also spent a sum of Kshs.359,162 for the payment of casual workers for the construction of a wall without evidence of the relevant dates that they were engaged. Physical verification done on 17 August, 2015 revealed no evidence of such a structure.

Committee Observations and findings

The Committee observed that the matter was reported as resolved.

117.3 Overpayment of Civil Works

The Nakuru Country Director of Housing on 25 March, 2015 entered into agreement with a contractor for the construction of three (3) electrical floor lighting structures in Jowatho Estate Njoro at a contract sum of Kshs.11,995,205. The amount included a sum of Kshs.1,577,994 in respect of provisional and prime costs.

Although the contractor was paid a total of Kshs.11,995,205, the certificate attached to the voucher reflected a sum of Kshs.11,410,646 resulting in overpayment of Kshs.584,559. Further, no documents were provided to support the payment for the provisional and prime costs of Kshs.1,577,994.

Committee Observations and findings

The Committee observed that the matter was reported as resolved.

117.4 Unconfirmed Procurement of Machinery Spares and Hardware Materials

The County Director of Housing paid Kshs.439,000 to a supplier for the procurement of Hydra Form Equipment spare parts. It was noted that although the Local Purchase Order (LPO) No. 1080675 was issued to the supplier on 26 January, 2015, analysis of quotations from bidders was done on 27 January, 2015. Further, a counter receipt voucher was raised on 27 January, 2015 to reflect that the items were received. However, there was no evidence that the spare parts were taken on charge and a job card provided to show that the repairs had been carried out on the hydro form equipment. Further, Kshs.494,400 was also paid to the same supplier for the purchase of hardware materials. However, the items were not taken on charge.

Committee Observations and findings

The matter was reported as unresolved. Auditor General to examine information submitted and report back to the Committee. To provide additional information requested by the Committee

117.5 Payment for House Repairs and Renovation not Undertaken

A local firm was contracted to carry out repairs on four residential houses namely: - NAKURU/HOU/MG 169 A and B and NAKURU/HOU/MG 171 A and B at State House, Nakuru, at a total cost of Kshs.1,184,238.

According to the bill of quantities (BQ), repair and redecoration of two of the houses, NAKU/HOU/MG 169A and B was done at a cost of Kshs.640,273. However, physical verification done on 17August, 2015 revealed that various fittings and installations costing Kshs.152,900 were paid for but not done. Similarly, the BQ also indicated that another two of the houses NAKU/HOU/MG 171 A and B were to be repaired and redecorated at a cost of Kshs.543,965. However, physical verification revealed that no work was done.

In the circumstances, the propriety of the payments amounting to Kshs.6,141,840, and ownership status of 121 housing units under the County Director of Housing in Nakuru could not be ascertained.

Committee Observations and findings

The Committee observed that the matter was reported as resolved.

118. Budgetary Controls and Performance

The Ministry of lands, Housing & Urban Development had a total budget of Kshs.29,706,194,169 voted for the financial year 2014/2015 comprising of Kshs.25,307,196,242 for Development and Kshs.4,398,997,927 for Recurrent expenditure. This was an increase of 35.42% compared to 2013/2014 financial year budget of Kshs.21,935,078,040.

The budget absorption was as follows:

Item	Budgeted Allocations 2014/2015	Actual 2014/2015	Under Absorption	Absorption In %
Recurrent	4,398,997,927	4,152,973,744	(246,024,183)	94.41
Development	25,307,196,242	14,387,772,550	(10,919,423,692)	56.85
Total	29,706,194,169	18,540,746,294	(11,165,447,875)	62.5

In view of the above, the Ministry failed to utilize funds totaling Kshs.11,165,447,875 out of which Kshs.10,919,423,692 relates to development projects. Failure to utilize funds for development is an indication of stagnation of development agenda in the Country and may impact negatively on citizens' standards of living.

Committee Observations and findings

The matter was reported as unresolved. There was Exchequer under Issue to the Tune of Kshs. 7,480,740, 837 as well as there was late uploading of the final revised budget in IFMIS. The Auditor to clear the query with the Accounting Officer.

119. Pending Bills

As disclosed in note 27.1 to the financial statements, the Ministry of Lands, Housing & Urban Development had a total of Kshs.3,704,994,723 as pending bills which were not settled as at 30 June 2015 but were carried forward to 2015/2016. Had the bills been paid and the expenditure charged to the account for 2014/2015, the statement of receipts and payments for the year would have reflected a reduced surplus from Kshs.152,494,510 to a deficit of Kshs.3,552,500,213.

My opinion is not qualified in respect to these matters.

Committee Observations and findings

The Committee observed that the matter was reported as resolved.

8.0. MINISTRY OF INFORMATION, COMMUNICATION AND TECHNOLOGY FINANCIAL STATEMENTS FOR VOTE 112

Mr. Victor Kyalo, the Accounting Officer accompanied by Sammy Itemere; Principal Secretary Broadcasting Technology, Mr. Henry Mung'asia, Director Administration; Mr. David Jakaiti; Secretary Administration, Frederick Owiti; HSCMS, Sally Washiko; Personal Assistant to Principal Secretary Broadcasting Technology, Mr. Gwaro Ogaro; Acting Director Information, Mr. Vincent Luke Kirwa; SAAG, Ms. Sephone Ombachi; SPFO, Ms. Jane M. Musundi; SPF and Mr. Christopher Maina; Principal Legal Officer appeared before the Committee on 15th March 2018, to adduce evidence on the audited Financial Statements of Vote 112 Ministry of Information and Technology for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Baisis for Qualified Opinion

146. Legal Fees

Information available at the Ministry indicates that on 18 September 2006 the Government of Kenya was sued in the High Court of Justice (Queens Bench Division) England on Anglo leasing related contracts. The Ministry of Information, Communications and Technology with the authority of the Attorney General single sourced and appointed Law firm to represent the Ministry in the High Court of Justice (Queens Bench Division London). The appointment of the Law firm was done on the understanding that the Ministry would be responsible for ensuring that reasonable professional fees were agreed upon, taxed and paid. The Ministry deposited KShs.4, 000,000 in the Advocates account in respect of legal fees. Thereafter the legal firm with the authority of the Ministry engaged the services of another Law firm in England for the purpose of defending the Government of Kenya. Documents available indicate that the Kenyan Law firm filed a bill of costs before the Commercial Court at Milimani on 22 December 2009 against the Attorney General on behalf of the Ministry of Information, Communications and Technology. The Ministry filed its submission on 14 November 2011 opposing the said bill of costs. The matter was heard and a ruling delivered on 13 February 2013 dismissing the Bill of costs and awarded the applicant the Kenyan Law firm KShs.4, 000,000 that was earlier deposited in their account as sufficient for the advisory work done for the Ministry on Anglo Leasing related contracts.

The law firm which was aggrieved by the Commercial Court's decision, filed an appeal in the High Court on 7 March 2013 and judgment was made on 31 October 2013 stating that the award of the commercial Court of KShs.4, 000,000 was inordinately low and subsequently awarded the law firm KShs.25, 000,000 as reasonable instructions fee for the legal services rendered by the Kenyan Law Firm. Although the Ministry paid Kshs.25, 000,000 to the Attorney General for onward transmission to the Law firm, no evidence of any contractual agreement between the

Ministry and the law firm was availed for audit review. In the absence of the contractual agreement, it has not been possible to establish how the fee of Kshs.25, 000,000 was arrived at. In the circumstance, the propriety of expenditure of Kshs.25, 000,000 paid to the law firm could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry vide letter Ref. MIC/A 17/17/ (50) dated 13th September, 2006 wrote requesting the Attorney General for authority to appoint Wambugu, Motende and Co. Advocates to represent the Ministry in the cases relating to this matter. In response the Attorney General vide his letter Ref.AG/CONF/6/D/112 Vol.1 dated 20th September, 2006 granted authority to the Ministry to appoint Wambugu, Motende and Co. Advocates to represent the Ministry and the Ministry was to meet the costs. The mode of engagement of the Law firm was on the basis of exchange of communication of the mentioned letters between the AG and the Ministry. The involvement of the firm of Edwin Coe in the case in London was a direct engagement under the guidance of the Office of the Attorney General and was not a sub contract by the Firm of Wambugu and Motende Co. Advocates as per the AG's letter mentioned above. The figure of KShs.25, 000,000.00 was arrived at upon taxation by the court on the item of instruction fees since the costs would either be agreed or taxed. The Ministry and the Advocates firm were unable to agree upon the figure hence the taxation of costs and it was within the legal requirements.

Committee Observations and Findings

1. **The committee observed that the letter from the Attorney General showing the relationship between the two audit firms was availed to the Aufitor General.**
2. **The committee marked the matter as resolved.**

147.1 Transfer of grants to Kenya Yearbook Editorial Board

Examination of available records in the Ministry indicates that a total of KShs.83, 198,400 was paid to Kenya Yearbook Editorial Board as grants for the financial year ended 30 June 2015. However examination of payment vouchers indicates that additional amount of KShs.34, 800,000 was paid as assistance to undertake various activities by the Kenya Yearbook Editorial Board vide payment vouchers No 419 and 501 for KShs.27, 000,000 and KShs.7, 800,000 respectively. The payments were done contrary to the Public Finance Management Regulations 2015 Section 71 (5) which provides that a National government entity is not allowed to give National government entity cash donations to augment the budgetary resources of a designated department.

In addition, funds appropriated and approved for specific programs by the Ministry of Information, Communications and Technology were paid to Kenya Yearbook Editorial Board contrary to Sections 54 of the Public Finance Management Regulation 2015 which state that except as provided for in the Act and these Regulations, an accounting officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purpose other than those activities. Further, review of records at the Kenya Yearbook Editorial Board indicates that the funds were not in the approved budget for the financial year ended 30 June, 2015 and the procurement plan for the year did not include the goods and services procured. The Ministry was therefore in breach of the Law and no satisfactory explanations have been provided on how the amount of KShs.34, 800,000 was utilized for the year ended 30 June 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry disbursed KShs.83, 198,400 to the Board. Out of which Ksh. 48,398,400 was the Institution's budget for salaries. KShs 7, 800,000 was for payments of services rendered to Government Advertising Agency (GAA) towards production (Editing, Designing, and Printing) of Logos, Advertising Guidelines, Communication Policies and Service Charters. In addition the Ministry provided the Board with Kshs.27, 000,000 to finance the contractual obligations of fixed overheads such as rent, pending bills, Gratuity, accrued taxes, staff medical insurance cover and Operations and Maintenance.

It was observed that the 2014/15 allocation of Kshs 48,398,400 for the Board was sufficient for staff costs only, pending merger with other four Government entities as had been recommended by the Parastatal Reforms Committee in 2013/14 financial year.

The Board was, however, left as a stand-alone entity. It requested for additional funds to cater for these expenses in the supplementary Estimates which was not provided. The Ministry intervened to save the financial distress of the board.

Committee Observations and Findings

The Board was established without proper financial base causing the ministry to strain its meagre resources to finance the board's activities.

Committee Recommendations

The executive must move with speed to implement recommendations of the Parastatal Reforms Committee to merge several parastatals together to reduce cost on the exchequer.

147.2 Connected East Africa Summit

Available records indicate that the Ministry pledged to pay Kshs.10, 000,000 towards funding of Connect East Africa summit to Information Communication Technology Authority (ICTA). However, scrutiny of payment vouchers indicate that the Ministry instead paid a total of Kshs.20, 000,000 to the Authority vide payment vouchers No.443 and 562 dated 19 May 2015 and 23 June 2015 for Kshs.10, 000,000 each respectively in respect of Connect East Africa Summit resulting into over payment of Kshs.10, 000,000.

Records held at the ICTA indicate that although the Authority had budgeted for KShs.10, 000,000 in respect of Connected East Africa Summit, it received KShs.20, 000,000 and only

Kshs.10, 000,000 was paid in respect of the Summit. The balance of KShs.10, 000,000 was still being held in the Authority books of accounts as at 30 December 2015.

Although the Ministry was fully aware of the above anomaly, no evidence to show efforts being made to recover the excess amount of KShs.10, 000,000 from the Authority was availed for audit review as at the date of this report.

Submission by Accounting Officer

The accounting officer submitted that the Ministry had received a request from the Authority to support hosting the Summit. The Ministry erroneously processed two payments of KShs.10m each on 19th May, 2015 and 23rd June, 2015. However, immediately the Ministry detected the double payment it wrote to ICTA asking for a refund. The Authority confirmed receipt of excess KShs.10m and has since refunded as per attached bank extract.

Committee Observations and Findings

1. **The committee observed that the Ministry erroneously processed two payments of KShs.10m each on 19th May, 2015 and 23rd June, 2015. However, immediately the Ministry detected the double payment it wrote to ICTA asking for a refund. The Authority confirmed receipt of excess KShs.10m and has since refunded as per attached bank extract**.
2. **The committee marked the matter as resolved.**

147.3 Unclear Transfer of grants to Ministry Departments

The statement of receipts and payments for the year ended 30 June 2015 reflects KShs.2,435,625,509under grants and transfers to other Government Units. Included in the figure of Kshs.2,435,625,509are grants totaling KShs.110,000,000 transferred to two (2) Ministry Departments - Government Advertising Agency (GAA)Kshs.83,000,000and Kenya Institute of Mass Communication (KIMC) KShs.27,000,000 without budgetary provisions and approval contrary to Section 31 (1) of the Public Finance Management Regulations 2015 which states that the accounting officer shall ensure that the draft estimates relating to her/ his department are prepared in conformity with the Constitution and the Public Finance Management Act, 2012 and its Regulations. It was however observed that the two (2) Departments; Government Advertising Agency and Kenya Institute of Mass Communications are still Departments operating under the Ministry of Information, Communications and Technology and therefore do not qualify for grants. It is not clear and the Ministry has not explained the circumstances under which Kshs.110, 000,000 was transferred to its two (2) internal departments and how the monies were utilized. In the circumstances, it has not been possible to confirm the propriety, regularity and validity of KShs.110, 000,000 transferred to the two (2) Ministry's internal departments for the year ended 30 June 2015.

Submission by Accounting Officer

The Accounting Officer admitted that it was true that the statement of receipts and payment reflect as transfer of KShs.83, 000,000 and KShs.27m to GAA and KIMC respectively. Kenya Institute of Mass Communication was upgraded into a separate entity after the budget making process had been concluded in which the budget had been itemized for the Department. In anticipation that the second half will be collapsed into a one line item budget in supplementary, a request for additional KShs.27m by the institute to cater for its financing deficit was budgeted under transfer and transferred to KIMC. Attached are payment vouchers from the institute to account for expenditure of amount of KShs.27 million.

On the other hand, the Government, through a Cabinet decision approved creation of centralized Advertising Agency referred to as Government Advertising Agency. The Approval came when supplementary 1, was being concluded in December, 2014. It was proposed that the budget be captured as a grant because it was expected that the Legal Instruments creating the Agency will be ready to operationalize it. However, this did not take place. The funds were therefore not transferred but spent for activities of the Agency at the Ministry Headquarters and accounted for with other expenditures in the final accounts of the Ministry. It is observed that the KShs.83 million was therefore not transferred as grants as indicated in the financial statements and failure to disclose in the notes was an oversight.

Committee Observations and Findings

1. **The Committee observed that the Government, through a Cabinet decision approved creation of centralized Advertising Agency referred to as Government Advertising Agency concluded in December, 2014. The Minsitry therefore transfrerd Ksh. 83, 000, 000 for funding advertising activities by the Government Advertising Agency and Ksh. 27, 000, 000 to Kenya Institute of Mass Communication to cater for its financing deficit and**
2. **The matter was marked as resolved**

148.1 Un-authorized expenditure on purchase of motor vehicles

Records available at the Ministry indicates that a total of Kshs.104,335,548 was spent on Purchase of Motor vehicles during the year under review against a budgetary provision of KShs.91,200,000 resulting in unauthorized over expenditure of KShs.13,135,548.The Ministry through letter Ref. No.RES112/14/01/28 dated 23 January 2015 obtained authority from the Principal Secretary, National Treasury for purchase of 12 four wheel vehicles at a total cost of KShs.70,695,190 to be distributed as follows:-4 vehicles to National Optic Fiber backbone Infrastructure (NOFBI), 4 for County Connectivity Project and 4 for Kenya Transparency Communication Infrastructure Project (KTCIP). However the Ministry disregarded the National Treasury authority to purchase twelve (12) vehicles and instead without authority, went ahead to procure twenty three (23) vehicles at a total cost of KShs.104,335,548 resulting into an additional and unapproved expenditure of KShs.13,135,548 as at 30 June 2015. In the circumstances, the propriety of over expenditure totaling KShs.13, 135,548 on motor vehicles could not be ascertained for the year ended 30 June 2015.

Submission by Accounting Officer

It was true that the Ministry spent **KShs.104, 225,540** to procure vehicles. The vehicles were bought from the following budget allocations.

1.	Directorate of Information	KShs.20.2m
2.	Business process outsourcing	KShs.71.0m
3.	Allocation for G.A.A	KShs.13.1m
	TOTAL	**KShs.104.2m**

The Ministry requested for authority to procure twelve four wheel .project vehicles at an estimate cost of KShs.6m each for the three projects as GoK contribution.

1. National Optic Fibre Backbone Infrastructure
2. County Connectivity
3. Kenya Transparency Communications Infrastructure Project

The Ministry procured 9 additional vehicles arising from the need of transport facilitation for field supervision and local running of the projects. The KShs.13.1m was utilized to procure Vehicles for use by the Government Advertising Agency (GAA) as per approval of the Ministerial Tender Committee in anticipation for finalization of legal documents to establish GAA as a SAGA.

Committee Observations and Findings

1. **The Management tabled an explanation to support its submission to resolve the matter relating to Un-authorized expenditure on purchase of motor vehicles under paragraph 148.1 to the satisfaction of the Committee.**
2. **The committee marked the matter as resolved**.

148.2 Agency and Disbursement Fees to Huawei Technologies Ltd

Examination of payment vouchers revealed that the Ministry paid Kshs.28,218,313 to Huawei Technologies Ltd during the year under review in respect of agency fees of KShs.2,275,826 and disbursement/reimbursement fees KShs.25,942,487 all totaling KShs.28,218,313. Huawei Technologies Ltd were contracted to provide Project Management services on behalf of the Government of Kenya through the Ministry Contract No. 00Y4041009240A of 7 July 2010.However no documentary evidence was availed to show how the firm was identified and awarded the contract and how the contract price was arrived at. Scrutiny of Ministry records indicate that the goods were cleared on 28 December 2013, while reimbursement and claim documents were presented in March 2015. No explanation has been provided as to why the documents took over a year before the same were lodged with the Ministry for payment. Further, no documentary evidence indicating that the goods and services were verified and inspected by an independent inspection team was availed for audit review. In the circumstances, it has not been possible to confirm the propriety of expenditure totaling KShs.28, 218,313 for the year ended 30 June 2015.

Submission by Accounting Officer

The Accounting Officer submitted that the Government of Republic of Kenya entered into Financing Agreement with the Export-Import Bank of China on 8th October, 2012 to finance phase two of National Optic Fibre Backbone Infrastructure Project (NOFBI II) at a cost of US $72,500,000. The Ministry entered into a commercial contract with Huawei Technologies Ltd Under clause 3 of the Contract the Company was responsible for importing goods up to the Port of Entry and transporting them from the Port to the place of use while the Ministry was responsible for clearing of the goods. It was found logical to engage Huawei in clearing the goods because:

i. i. A delay in clearance of goods was causing accumulation of demurrage charges.

ii. ii. There will be interruption of services by engaging another firm.

iii. Owing to inadequate capacity in the Ministry to undertake this responsibility it was found prudent that the same be transferred to Huawei Technologies Kenya Co. Ltd for enhanced efficiency and effectiveness in the project implementation to undertake Customs Clearance.

iv. Huawei is an Authorized economic operator (CEO) a privilege that allows for direct clearance without many KRA process thus enjoys all advantages that come with it at the port clearance for example lead time is shortened.

V. Huawei has a third party payment and credit arrangement with its agents; this enables them to expedite clearance costs hence reduce lead times and prevent losses brought by delay.

The Ministry negotiated with Huawei and agreed on KShs.2, 313.62 and KShs.1, 601.04 for 40ft container and 20ft container respectively as the applicable rates which were subsequently approved by MTC. All other payments made to third parties like KRA would be reimbursed on production of payment receipts. Ministerial Tender Committee on its meeting held on 2nd September, 2014 awarded Huawei Company to clear the goods as per copies of minutes and contract attached.

There was delay in paying Huawei for goods cleared for the Ministry in December 2013 because the company submitted invoices after the contract on clearance was entered. (Annex 6)

Committee Observations and Findings

1. **The Ministry took the correct measures to engage Huawei Technologies Ltd directly for better service delivery to realize value for money.**
2. **The committee marked the matter as resolved.**

149 Accounts Receivables-Unaccounted for imprests

The statement of Assets as at 30 June 2015 reflects under accounts receivable outstanding temporary Imprest and advances of KShs.1, 312,661 which includes unexplained variance of KShs.208, 250 as reported in the year 2013/2014. This variance has not been accounted for as at the date of this report. In the circumstances, it has not been possible to confirm the accuracy of the accounts receivables balance of KShs.1, 312,661 as at 30 June 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that by 30th June 2015 there was an outstanding temporary Imprest of Kshs.208, 250. The Imprest was issued to a Member of Parliament. The Ministry wrote to the Clerk to the National Assembly Ref No. MIC/4/19/ (176) dated 3RD September, 2014 but there was no response. The Honorable Member later forwarded the Travel documents and the issue has since been cleared.

Committee Observations and Findings

1. **The committee observed that the imprest was surrendered and the issue has since been cleared.**
2. **The committee marked the matter was as resolved**

150.1 Construction of Men's Hostel at KIMC

Examination of the Ministry records indicates that a Contract No. D32/01/2012-2013 for the proposed erection and completion of Men's hostels at the Kenya Institute of Mass Communication was awarded to a Construction Company at a contract sum of KShs.188, 858,602. However scrutiny of the contract documents revealed that the contractor did not provide the following goods and services which were included in the bill of quantities:

1. 2 No. Laptop Computers-Toshiba or other equal and approved	Kshs. 250,000
2. Project Management expenses:	
-Technical training of the MO PW	Ksh. 206,000
-Project management expenses	Ksh.1, 030,000
-Clerk of works allowance	Ksh. 154,500
Airtime kshs.5000×1 person×6×12 months	Ksh. 370,800
3. Performance bond	Ksh. 1,000,000
4. Provision of site office for project manager	Ksh. 500,000
TOTAL	**Ksh. 3,511,300**

Further, it was noted that although the Contractor was required to provide a performance bond of 5 percent of the contract sum or KShs.1,000,000, the amount was irregularly provided for in the bill of Quantities and charged to the Ministry contrary to contract agreement. No satisfactory explanation has been provided as to why the contractor failed to provide for the performance bond as required and it is doubtful if public resources totaling KShs.4, 511,300 may have gone into waste.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the sum of KShs. 3,511,300.00 was included in the preliminary expenses in the Bill of Quantities of the total contract cost of Kshs 188,858,602.40. The institute has not so far received the last and final certificate from the Project Managers (Ministry of Public Works). The institute still owes the contractor KShs.12, 230,388 being retention monies for the project. The Institute shall deduct the sum of KShs.3, 511,300.00 before payment of the final retention if no evidence will have been received to confirm that the contractor incurred the preliminary expenses. The contractor has been informed of the same vide letter ref: KIMC/G/A/135 VOL.II (98).

Committee Observations and Findings

1. **The ministry has taken correct measures to retain monies for the project.**
2. **The Committee marked the matter as resolved.**

150.2 Failure to Deduct Withholding Tax on Payments to Contractor

Examination of Ministry records revealed that Ministry failed to deduct and remit to Kenya Revenue Authority withholding tax totaling KShs.5, 665,758 upon payment to the contractor contrary to the Income Tax Act CAP 470 Section 35 (3) f which provides for deduction of withholding tax from resident Companies at the rate of 3 percent of the contract fees. No satisfactory explanation has been provided for the above anomaly and the Ministry was therefore in breach of Income Tax Laws.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the Instituted had not deducted the 3 percent withholding tax from the contractor to KRA but the same has been affected from the retention money as per PV NO. 954 dated 26th February, 2016 and KRA iTax general ledger report.

Committee Observations and Findings

1. **The committee observed that the Kenya Institute of Mass Communication paid the withholding tax from the retention money as per PV NO. 954 dated 26th February, 2016.**
2. **The committee marked the matter as resolved.**

150.3 Unauthorized Extension of the Project Completion Date

Further, available records at the Ministry revealed that the Project Manager for the construction of the Boys Hostels at the Kenya Institute of Mass Communication extended the project completion period by 16 weeks from 1 February 2014 to 31 May 2014 without the approval of the Ministry Tender Committee. The extension is therefore contrary to the Public Procurement and Disposal Regulation 2006, Section 102 (m) which provides that the functions of the tender committee shall be to approve the amendment of the contracts previously awarded by the tender committee, in accordance with the Public Procurement and Disposal Act 2005 and its regulations 2006.The Project Manager therefore contravened the procurement laws.

Submission by Accounting Officer

The Project Manager forwarded a recommendation for extension of time from 1st February 2014 to 31st May 2015 due to reasons stated in the said recommendation. Copies of correspondence on delay in payments dated 16th May 2013 and Request for Authority to extend tender dated 1st February 2014 were provided. The extension was given by the Project Manager, Public Works and approved by tender committee on the understanding that the extension did not have any financial or any other claim on the Institute and the contract extension was signed on 2nd February, 2014**.**

Committee Observations and Findings

1. **The committee observed that the extension was given by the Project Manager, Public Works and approved by tender committee on the understanding that the extension did not have any financial or any other claim on the Institute and the contract extension was signed on 2nd February, 2014.**
2. **The committee marked the matter as resolved.**

150.3 Budget Control and Performance

The Ministry of Information, Communications and Technology had a total budget of KShs.10, 297,881,920 voted for the financial year 2014/2015 comprising of KShs.2, 609,948,127 for Recurrent Vote and KShs.7, 687,933,793 for Development Vote respectively. The budget absorption in the Ministry was as follows:

Budgeted	Actual Under 2014/2015	Absorption 2014/2015	Allocation	Expenditure	Absorption
R. Vote	2,609,948,127	2,309,866,242	300,081,885		
D Vote	7,687,933,793	5,316,663,602,	371,270,191		

Records availed for audit review indicated that KShs.928, 108,060 under Recurrent Vote was for use of goods and services. However as at the end of the financial year 2014/2015 only KShs.774, 725,447 had been spent representing 83.4percent absorption. It is not clear why the Ministry did not spend KShs.153, 382,613 allocated for goods and services.

The Accounting Officer submitted thatit was also noted that KShs.1, 750,000 and KShs.69, 990,067 were allocated as other grants and transfers and acquisition of assets respectively. As at 30 June 2015, only KShs.1, 049,660 and KShs.16, 047,856 equivalents to 60 percent and 23 percent respectively had been spent. No explanation has been provided for the under expenditure KShs.54, 642,551 for the year ended 30 June 2015.

The Ministry had a budgeted allocation of KShs.7, 687,933,793 under Development Vote for the year 2014/2015. As at the end of the year only KShs.5, 316,663,602 had been spend representing 69 percent of the budget allocation. Records availed for audit review indicated that KShs.5,247,684,414 had been allocated for acquisition of assets and only KShs.2,918,349,991 had been spent representing 57 percent of the budget allocation. No explanation has been provided for this under expenditure.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the year under audit underutilized both Recurrent and development budget of KShs. 2,609,948,127.00 and KShs.7, 687,933,793 respectively. This was due to the following reasons:-

i. Delay in procurement processes.
ii. The introduction of Internet Banking to the Ministry's very late in the financial year disrupted the payment processes.
iii. Frequent disruptions of both G-pay and IFMIS systems.

iv. Delay in the release of the Supplementary budget for the financial year.

v. Non release of exchequer.

Committee Observation and Finding

The Management tabled an explanation to support its submission to resolve the matter relating to budget control and performance under paragraph 150.3 to the satisfaction of the Committee. The matter under paragraph 150.3 relating to budget control and performance stands resolved.

Committee Recommendation

The Treasury should release exchequer on time

151 Budgetary Control and Performance

Other Matter

151. Budgetary Controls and Performance

The Ministry of Information, Communication and Technology had a total budget of Kshs.10,297,881,920 voted for the financial year 2014/2015 comprising of Kshs.2,609,948,127 for Recurrent Vote and Kshs.7,687,933,793 for Development Vote. The budget absorption in the Ministry was as follows:-

Item	Budgeted Allocation 2014/2015	Actual Expenditure 2014/2015	Absorption	Absorption as a %
Recurrent Vote	2,609,948,127	2,309,866,242	300,081,885	88
Development Vote	7,687,933,793	5,316,663,602	371,270,191	69
TOTAL	**10,297,881,920**	**7,626,529,844**	**2,671,352,076**	

Records availed for audit review indicate that Kshs.928,108,060 under Recurrent Vote was for use of goods and services. However as at the end of the financial year 2014/2015 only Kshs.774,725,447 had been spent representing 83.4% absorption. It is not clear why the Ministry did not spend Kshs.153,382,613 allocated for goods and services.

It was also noted that Kshs.1,750,000 and Kshs.69,990,067 were allocated as other grants and transfers and acquisition of assets respectively. As at 30 June 2015, only Kshs.1,049,660 and Kshs.16,047,856 equivalent to 60% and 23% respectively had been spent. No explanation has also been provided for the under expenditure totalling Kshs.54,642,551.

The Ministry had a budgeted allocation of Kshs.7,687,933,793 under Development Vote for the year 2014/2015. As at the end of the year only Kshs.5,316,663,602 had been spent representing 69% of the budget allocation. Records availed for audit review indicated that Kshs.5,247,684,414 had been allocated for acquisition of assets and only Kshs.2,918,349,991 had been spent representing 57% of the budget allocation. No explanation has been provided for this under expenditure.

My opinion is not qualified in respect to this matter.

Submission by Accounting Officer

The Ministry of Information, Communications and Technology had a total budget of KShs.10, 297,881,920 voted for the financial year 2014/2015 comprising of KShs.2, 609,948,127 for Recurrent Vote and KShs.7,687,933,793 for Development Vote respectively. The budget absorption in the Ministry was as follows:

	Budgeted Expenditure 2014/2015	Actual Under Absorption 2014/2015	Absorption	Allocation
R. Vote	2,609,948,127	2,309,866,242	300,081,885	
D Vote	7,687,933,793	5,316,663,6022,	371,270,191	

Records availed for audit review indicated that KShs.928,108,060 under Recurrent Vote was for use of goods and services. However as at the end of the financial year 2014/2015 only KShs.774,725,447 had been spent representing 83.4% absorption. It is not clear why the Ministry did not spend

KShs.153,382,613 allocated for goods and services.

It was also noted that KShs.1,750,000 and KShs.69,990,067 were allocated as other grants and transfers and acquisition of assets respectively. As at 30 June 2015, only KShs.1,049,660 and KShs.16,047,856 equivalent to 60% and 23% respectively had been spent. No explanation has been provided for the under expenditure KShs.54,642,551 for the year ended 30 June 2015.

The Ministry had a budgeted allocation of KShs.7,687,933,793 under Development Vote for the year 2014/2015. As at the end of the year only KShs.5,316,663,602 had been spend representing 69% of the budget allocation. Records availed for audit review indicated that KShs.5,247,684,414 had been allocated for acquisition of assets and only KShs.2,918,349,991 had been spent representing 57% of the budget allocation. No explanation has been provided for this under expenditure.

Committee Observations and Findings

The Ministry did not utilize a total of Kshs. 2,609,948,127 for development and Kshs. 7,687,933,793 for recurrent expenditure.

Committee Recommendation

1. **The Cabinet Secretary for National Treasury must at all times ensure timely releases of the exchequer to all spending agencies in line with their approved annual cashflow plan pursuant to section 29 (2) of the Public Finance Managenet Act.**
2. **The Cabinet Secretary for National Treasury should put in place measures to address other budget implementation impedimants such as delays in procurements and frequent disruptions of IFMIS.**

REVENUE STATEMENT- MINISTRY OF INFORMATION, COMMUNICATION AND TECHNOLOGY

Basis for Qualified Opinion

152 Under Collection of Revenue

According to the letter of designation as receiver of revenue dated 14 August 2014, the Principal Secretary, was supposed to collect revenue totaling Kshs.22, 745,017 during the year under review. However, records available indicates that only Kshs.3, 673,366 was collected resulting in under collection of Kshs.19, 071,651 as at 30 June 2015. No satisfactory explanation has been provided as to why revenues totaling Kshs.19, 071,651 was not collected during the year under review.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that revenues totaling to Ksh. 19,071,651 was not collected during the year under review. This was as expected as a number of parastatals were not able to honour their dues by the closure of business 30th June, 2015. The Ministry has taken initiative to write and follow up for the payments and great progress has been made.

Committee Observations and Findings

The Ministry collected a paltry Kshs. 3, 673,366 out of the annual target of Ksh. 19, 071,651 for the year resulting in under collection of Appropriation In Aid (AIA) for the year under review.

Committee Recommendations

Accounting Officers must at all times set realistic Apprropriation In Aid (AIA) targets and ensure that measurs are put in place to achieve the revenue collection

9.0. MINISTRY OF SPORTS, CULTURE AND THE ARTS

FINANCIAL STATEMENTS FOR VOTE 113

Amb. Kirimi P. Kaberiathe Accounting Officer for Vote 113, the Ministry of Sports, Culture and the Arts accompanied by Josephta O. Mukobe; Principal Secretary Heritage, Jacob Munge; Chief Finance Officer, Mathew Murungi; Communication Officer, Kassim M.Farrah; S/A, Christabel Musyoka; AAG, Stanley W. Kanyagu; ACCTI, Peter K. Mbugua; A.S appeared before the Committee on 18th October2018 to adduce evidence on the audited Financial Statements of Vote 113 the Ministry of Sports, Culture and the Arts for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

153. Budget and Budgetary Control

153.1 Revenue

The Ministry had budgeted for revenue of Kshs.4, 458,446,638.00 from the following sources:

Revenue head Budget Kshs	**Budget Kshs.**	**Actual Kshs.**	**Excess/(shortfall) Kshs**	**Excess/(shortfall) percent**
Recurrent exchequer issues	2,881,053,968.00	2,608,000,000.00	(273,053,968.00)	(9.5)
Development exchequer issues	1,533,000,000.00	1,282,810,000.00	(250,190,000.00)	(16.3)
Internal revenue	10,400,000.00	13,099,720.00	2,699,720.00	26
Domestic currency & domestic deposits	-	70,880,317.00	70,880,317.00	100
Other sources	-	12,299,847.00	(21,692,823.00)	(63.8)
TOTAL	**4,458,446,638.00**	**3,987,089,884.00**	**(427,971,108.00)**	**(9.6)**

However, there was a shortfall of Kshs.471, 356,754.00 or 10.57percent. The shortfall was mainly occasioned by under issue of exchequer receipts where the Ministry had budgeted for Kshs.4, 414,053,968.00 but actual receipts were Kshs.3, 890,810,000.00 resulting in a shortfall of Kshs.523, 243,968.00 or 11.9percent. The Ministry had also budgeted to collect Kshs.33, 992,670.00 from other sources, but realized Kshs.12, 299,847.00 from bilateral donors.

The revenue shortfall may negatively impact on the Ministry's capacity to deliver on its planned and budgeted services.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the Ministry collected revenue amounting to Ksh 3,987,089,844.00 against the budgeted amount of Kshs.4, 458,446,638. Hence the shortfall of Ksh 471,356,754 during the period under review. The shortfall was occasioned by under issue of exchequer receipts where the ministry had budgeted for Ksh 4,414,053,968.00/- but actual receipts were Ksh 3,890,810,000.00 resulting in a shortfall of Ksh 523,243,968.00/-. It is also true that the Ministry had budgeted to collect Kshs.33, 992,670/- from other sources but realized Kshs.12, 299,847/- from bilateral donors.

The shortfall in revenue totaling to Kshs. 523,243,968/- was due to under issue of exchequers under both recurrent and development votes during the year.

The shortfall in revenue of Ksh 21,692,823.00/- realized under other sources was due to the donors not releasing the funds in full within the year under review. It is important to note that USAID and UNICEF has continued to support the Department of Culture. Details on shortfall are as indicated below;

DONOR	BUDGET	COLLECTION	SHORTFALL
USAID	13,992,670.00	6,299,847.00	7,692,823.00
UNICEF	20,000,000.00	6,000,000.00	14,000,000.00
TOTAL	**33,992,670.00**	**12,299,847.00**	**21,692,823.00**

He stated that it was worth noting that the shortfalls in revenue have declined substantially in the subsequent years due to control measures instituted by the Ministry/Department.

Committee Observations and Findings

The explanation by the Accounting Officer that the shortfall of Ksh 471,356,754 during the period under review was occasioned by under issue of exchequer receipts where the Ministry had budgeted for Ksh 4,414,053,968.00/- but actual receipts were Ksh 3,890,810,000.00 resulting in a shortfall of Ksh 523,243,968.00/- was satisfying.

Committee Recommendations

The National Treasury must at all times endeavor to disburse funds allocated to every state department in good time to facilitate the smooth running of activities.

153.2 Expenditure

A comparison between the approved budget and the actual expenditure revealed that the Ministry under spent by Kshs.380, 640,409.00 on six (6) expenditure heads:

Expenditure head	Budget Kshs.	Actual Kshs.	(Over)/under Kshs.	(Over)/under percent
Compensation of employees	403,000,000.00	401,970,688.00	1,029,312.00	0.26
Use of goods and services	891,986,368.00	824,039,626.00	67,946,742.00	9
Transfers to other Government units	2,084,300,000.00	1,828,427,199.00	255,872,801.00	32
Other grants and transfers	11,000,000.00	10,638,221.00	361,779.00	3.3
Social security benefits	4,000,000.00	3,312,420.00	687,580.00	17.2
Acquisition of assets	1,064,160,270.00	1,009,418,075.00	54,742,195.00	5.1
Domestic currency & Payments	-	83,178,523.00	(83,178,523.00)	(100)
Total	**4,458,446,638.00**	**4,160,984,752.00**	**380,640,409.00**	**24.6**

Further, the Ministry's statement of receipts and payments reflects Kshs.1, 828,427,199.00 in respect to transfers to other Government units. However, the audited financial statements of the respective government units disclosed total actual receipts of Kshs.2, 605,359,164.00. The resultant difference of Kshs.776, 931,965.00 has not been reconciled. In addition, the Ministry paid Kshs.83, 178,523.00 for domestic currency and payments which had not been budgeted.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the approved budget and actual expenditure as per statement reflected a balance of Kshs. 380,640,409/-. It is also true that the Ministry's Statement of receipts and payments reflect an amount of Kshs.1, 828,427,199 in respect of transfers to other government units. This was against actual receipts of Ksh 2,605,359,164.00 reflected in the audited financial statement of the respective government units.

The under expenditure on the overall vote was caused by inadequate exchequer receipts from National Treasury. The payment of Ksh. 83,178,523/- under domestic currency and payments relates to third party money which does not constitute voted provision.

With regard to resulting differences on amount transferred to other government units, I wish to clarify that Ksh 1,828,427,199.00 in the ministry statement of receipts and payments excluded an amount of Kshs. 975,000,000/- paid to the Semi-Autonomous Government Agencies (SAGAs) in respect of acquisition of their assets. This brings to a total Kshs. 2,803,427,199.00 and not 2,605,359,164 as disclosed in the audited financial statements of respective government units.

Committee Observations and Findings

1. **The payment of Kshs. 83,178,523/- under domestic currency and payments relates to third party money which does not constitute voted provision.**
2. **Kshs 1,828,427,199.00 in the Ministry statement of receipts and payments excluded an amount of Kshs. 975,000,000/- paid to the Semi-Autonomous Government Agencies in respect of acquisition of their assets.**
3. **The matter is yet to be resolved.**

Committee Recommendation

The National Treasury must at all times endeavor to disburse funds allocated to every state department in good time to facilitate the smooth running of activities.

154. Unsupported Transfer to Ministry Headquarters

The statement of receipts and payments reflects Kshs.1, 828,427,199.00 as transfers to other government units. As disclosed under Note 10 to the financial statements, the figure of Kshs.1, 828,427,199.00 includes an amount of Kshs.83, 844,527.00 indicated as transfers to the Ministry Headquarters. Although management has explained it was a recurrent expenditure, no documentary evidence was provided to support the transfer and account for the utilization of the funds. In the circumstances, the propriety of the transaction could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true that the statements of receipts and payments reflect Kshs. 1,828,427,199/- as transfer to other government units.

As disclosed under note 10 of the financial statements, the figure of Kshs. 1,828,427,199/- includes an amount of Kshs. 83,844,527/- indicated as transfers to the Ministry Headquarters. The money was incurred in running the operations of the Ministry and the documents have since been traced and are available for audit verification.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the documents relating to Kshs. 83, 844,527.00 indicated as transfers to the Ministry Headquarters have been traced and are available for audit verification.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

1. **The Accounting Officer during the period under review, Amb Richard Ekai, should be reprimanded for failure to provide documents relating to an amount of Kshs. 83,844,527/- indicated as transfers to the Ministry Headquarters within the stipulated timelines pursuant to the provisions of section 74(4)(a) of the Public Finance Management Act, 2012.**

2. **Accounting officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.**

155. Other Grants and Other Payments

Note 11 to the financial statements indicates that an amount of Kshs.10, 638,221.00 as, 'other current transfers, grants'. Although management has indicated that the transfers were in respect of subscriptions to international organizations the Ministry collaborates with, the list of these organizations together with confirmation receipts have not been provided for audit verification. In the circumstances, it has not been possible to confirm that Kshs.10, 638,221.00 was received by the respective organizations and that is properly accounted for.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the financial statements indicated an amount of Ksh 10,638,221.00/- as other current transfer grants as at 30th June, 2015.It is also true that this amount were not supported by documents for transfers to international organization

The money was budgeted under current grants but as contributions to international organizations. However, due to budget constraints, some money was used to meet the Ministry's operational expenses (sporting activities). The relevant documents including payment vouchers, approval of re-allocation, among other documents are available for review.

Committee Observation and Finding

The explanation by the Accounting Officer that the money was budgeted under current grants but as contributions to international organizations and due to budget constraints, some money was used to meet the Ministry's operational expenses (sporting activities) was acceptable as the relevant documents including payment vouchers, approval of re-allocation, among other documents had been availed for review.

Committee Recommendation

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within threemonthsaftertheendofeachfinancialyear pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

156. Unsupported and Unaccounted for Disbursements to Sports

Section 47 of the Sports Act, 2013 states that a body shall not operate as a sports organization unless it is registered under this Act. Further, under Section 50 of the transitional clauses, sports organizations, which were duly registered under the Societies Act and existing immediately before commencement of this Act shall be required to apply for registration under this Act within one (1) year after the commencement of the Act. In addition, the Act stipulates that an existing sports organization that does not apply for registration within the time prescribed, shall not be recognized as a sports organization for the purposes of this Act. However, the Ministry of Sports, Culture and The Arts, disbursed funds totalling Kshs.42, 979,650.00 on patriotic basis to some organizations which had not complied with the Sports Act, 2013 as indicated:

Payee	Date	P.V. No.	Amount Kshs.
Kenya National Sports Council	10/11/2014	978	360,900
	25/2/2015	2763	556,000
	27/3/2015	2788	2,000,000
	27/5/2015	3393	3,030,000
	21/5/2015	3317	8,000,000
Sofapaka	26/2/2015	2350	500,000
Football Kenya Federation	31/7/2014		17,439,000
	12/8/2014	126	
	3/9/2014	290	
	11/5/2015	3168	
	3/11/2014	934	
TOTAL			**42,979,650**

Further, disbursements to Kenya National Sports Council totalling Kshs.13, 946,900.00 were not supported by payment vouchers.

In the circumstances, the propriety of the expenditure of Kshs.42, 979,650.00 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the Ministry disbursed funds amounting to Kshs. 42,979,650 to organization that had not complied with Sports Act 2013 as far as registration is concerned. However, at the time when the audit was being conducted, the office of the Registrar of Sports had just been established and as the Ministry awaited the legal drafting of regulations on registration of sports organizations, it had the obligation to fund the organization. There were no Internal Regulations to monitor the activities and operations of sporting organizations under the Ministry, e.g. Kenya National Sports Council. The Regulations were with the Attorney General for deliberations. However, after the Attorney General's deliberations, the Sports Registrar's office issued Certificates to these organizations.

Further, the documents in relation to payments made to Kenya National Sports Council amounting to Kshs. 13,946, 900 have since been traced and are available for audit.

Committee Observations and Findings

1. **The explanation of the Accounting officer that the Ministry disbursed funds amounting to Kshs. 42,979,650 to an organization that had not been registered in compliance with the Sports Act 2013 on the basis of patriotism was not satisfactory insofar as it could not from the basis from breaching the law contrary to the provisions of section 197(2) of the Public Finance Management Act, 2012 by incurring expenditure without lawful authority.**
2. **There were no internal regulations to monitor the activities and operations of sporting organizations under the Ministry contrary to the provisions of section 73(1)(a) of the Public Finance Management Act, 2012 has appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board.**
3. **The Accounting officer during the period under review was Amb. Richard Ekai.**
4. **The matter remains unresolved.**

Committee Recommendations

1. **The EACC and DCI should investigate the disbursement of funds amounting to Kshs. 42,979,650 to an organization that had not been registered in compliance with the Sports Act 2013 with a view to establishing whether there was a breach of the procurement laws and facilitating prosecution accordingly.**
2. **The Accounting officer during the period under review, Amb. Richard Ekai, must liaise with subsisting Accounting Officer to provide an explanation to the Auditor General incurring wasteful expenditure on behalf of the government contrary to s.68 (2)(a) of the Public Finance Management Act, 2012 within three months of adoption of this report.**
3. **Where no satisfactory explanation is not provided to the CS National Treasury and Auditor General within the stipulated time, Amb Richard Ekai should be surcharged for incurring expenditure of Kshs. 42,979,650 without lawful authority pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

4. **Within three months of adoption of this report, the Cabinet Secretary, National Treasury withholds any funds earmarked for disbursal to any organization that is not registered under the Sports Act, 2012 pursuant to the provisions of sections 196(1) and 204(2)(c) of the Public Finance Management Act, 2012 until the Ministry tables a report demonstrating compliance of all affected organizations.**

157. Irregular Expenditure on 20th Commonwealth Games

The statement of receipts and payments reflects a figure of Kshs. 173, 894,869.00 in respect of 20th Commonwealth Games' expenditure stated as pending bills incurred in 2013/2014 but accounted for in 2014/2015. However, the total pending bills reported for the year ended 2013/2014 were only Kshs.143, 967,837.00. The resultant difference of Kshs. 29, 927,031.70 has not been reconciled.

As a result, the accuracy and propriety of the expenditure of Kshs.173, 894,869.00 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true figure of Kshs. 173,894,869.00 reflected in the statement of receipts and payments was partly occasioned by payments of the previous year's pending bills (i.e. Kshs. 143,967,837.00) and air tickets bookings and other miscellaneous expenses totaling to Kshs. 29,927,031.70 including Commonwealth Games that were erroneously not included in the pending accounts payables for the year. It should be noted that the event took place on July 2014. Details on omitted pending bills are attached.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the figure of Kshs. 173,894,869.00 was partly occasioned by payments of the previous year's pending bills (i.e. Kshs. 143,967,837.00) and air tickets bookings and other miscellaneous expenses totaling to Kshs. 29,927,031.70 including Commonwealth Games that were erroneously not included in the pending accounts payables for the year was unsatisfactory.**
2. **The Accounting officer during the period under review was Amb. Richard Ekai.**
3. **The matter remains unresolved.**

Committee Recommendations

1. **The EACC and DCI must conduct an investigation into failure to include in financial statements-expenditure of Kshs. 29,927,031.70 on air tickets bookings and other miscellaneous expenses by the Ministry with a view to facilitating prosecution of any person or officer found culpable which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.**
2. **The Accounting Officer during the period under review, Amb. Richard Ekai, should be reprimanded for failure to include in financial statements-expenditure of Kshs. 29,927,031.70 on air tickets bookings and other miscellaneous expenses by the Ministry pursuant to the provisions of section 74(4)(a) of the Public Finance Management Act, 2012.**

158. Outstanding Advances

Included in the outstanding advances' balance of Kshs.885, 721.00 are salary advances of Kshs.537, 016.00. However, records examined showed that some balances have been long outstanding and mostly relate to former employees of the Ministry and their recoverability is doubtful.

Submission by Accounting Officer

The Accounting Officer submitted thatit was true current status on the long outstanding advances totaling to Kshs. 537,016.00 that were pending as at 30th June 2015 which are salary advances, is as below:

S/No	Description	Amount	Remarks
1	Advance recoveries	494,122.65	List of recovered staff
2	Doubtful debts	71,254.05	Letter to treasury for write off
3	Remittances to other ministries	(28,361)	Letter from treasury approving write off

Committee Observations and Findings

1. **The explanation by the Accounting Officer had written to the National Treasury for permission to write off long outstanding advances totaling to Kshs. 99,615.00 that were pending as at 30th June 2015 which are salary advances and Kshs. 494,122.65 was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they adhere to the regime regulating issuance and recovery of imprest pursuant to the provisions of Regulation 93 of the Public Finance Management Regulations, 2015.

159. Outstanding Imprests

Note 21 to the financial statements shows balances brought forward which include Kshs.135, 310,107.00 described as imprests. However, the 2013/2014 financial statements reflected a balance of Kshs.290,010.00 while under Note 17 the outstanding imprest is shown as Kshs.1,327,676.00. The management's explanation that the balances in Notes 21 are for disclosure purposes only and that they do not affect the financial statements' figures, is erroneous.

Further, included in the list of outstanding imprests' balance of Kshs.1, 327,676.00 were names of two members of parliament with balances totalling Kshs.586, 080.00. Management has not explained the circumstances under which the imprests were advanced to the two members of parliament.

In the circumstances, the accuracy and recoverability of the outstanding imprest is doubtful.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that Kshs 290,010 was the imprests outstanding at the closure of F/Year 2012/2013 and opening balance in F/Year 2013/2014 while Ksh. 135,310,107 was the imprests outstanding at the end of F/Year 2013/2014 but opening balance in F/year 2014/2015. This was under the note 21 for disclosure of balances brought forward in Year 2013/2014 and 2014/2015.

An amount of Ksh 1,327,676 was the imprests outstanding at the closure of the F/Year 2014/2015. This amount includes Kshs. 586,080.00.

That had been issued to members of Parliament who were participating in the Ministry's activities and the same has since been cleared vide the attached surrender vouchers**.**

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the imprests outstanding at the closure of F/Year 2012/2013 and opening balance in F/Year 2013/2014 while Kshs. 135,310,107 was the imprests outstanding at the end of F/Year 2013/2014 but opening balance in F/year 2014/2015 was reasonable.**
2. **The committee marked the matter remains unresolved.**

Committee Recommendation

Accounting officers must at all times ensure that they adhere to the regime regulating issuance and recovery of imprest pursuant to the provisions of Regulation 93 of the Public Finance Management Regulations, 2015.

160. Unsupported Balances

160.1 Clearance Accounts

The statement of assets as at 30 June 2015 reflects a clearance account balance of Kshs.14, 559,609.00 in (2014: Kshs.65, 097,468.00). Note 19 to the financial statements indicate that the clearance accounts were in respect of outstanding clearance accounts/District Suspense balances carried forward. However, no analysis was provided showing the movement or what the clearance accounts represent.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the statement of assets as at 30th June, 2015 reflect a clearance account balance of Kshs. 14,559,609 (in 2014: Kshs. 65,097,468.00). These were in respect of district suspense balances carried forward.

The movement of Kshs. 65,097,468.00 to Kshs. 14,559,609 is made up as follows:

Balance carried forward in 2013/2014	Kshs. 65,097,468.00
Districts Suspense in 2014/2015	Kshs. 462,141.00
Total	**Kshs. 65,559,609.00**
Less: General Suspense cleared during	
financial year 2014/2015 in respect of	
Air tickets for 20th Commonwealth games	Kshs. (51,000,000.00)

Total Kshs.**14,559,609.00**

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the statement of assets as at 30th June, 2015 reflect a clearance account balance of Kshs. 14,559,609 (in 2014: Kshs. 65,097,468.00) was in respect of district suspense balances carried forward was acceptable.**
2. **The matter remains unresolved.**

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within threemonthsaftertheendofeachfinancialyear pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

160.2 Suspense Account

The statement of assets as at 30 June 2015 further reflects a suspense account balance of Kshs.6, 303,342.00 or 100percent increase from a nil balance as at 30 June 2014 with no analysis or indication of what it represents. As a result, the accuracy and validity of the clearance and suspense accounts balance of Kshs.20, 862,951.00 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the statement of assets as at 30th June, 2015 reflected a suspense account balance of Kshs. 6,303,342 in respect of unaccounted for transactions for 2013/2014 and 2014/2015 financial year. The Ministry is in the process of tracing the details of the transactions and the analysis will be provided.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the Ministry is in the process of tracing the details of the transactions and will provide analysis of Kshs. 6,303,342 in respect of unaccounted for transactions for 2013/2014 and 2014/2015 financial year was reasonable.**
2. **The matter remains unresolved.**

Committee Recommendation

Within three months of the adoption of this report, the Accounting Officer must provide details of the transactions and will provide analysis of Kshs. 6,303,342 in respect of unaccounted for transactions for 2013/2014 and 2014/2015 financial year within three months of the adoption of this report pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

161. Pending Bills

The Ministry's records indicate that bills totalling Kshs.632,045,720.00 relating to financial year 2014/2015 and chargeable to Vote 1131 for both recurrent and development accounts were not settled during the year but were instead carried forward to financial year 2015/2016. Had the bills been paid and the expenditure charged to the accounts for financial year 2014/2015, the statement of receipts and payments for the year would have reflected a deficit of

Kshs.805,940,589.00 instead of deficit of Kshs.173,894,869.00 now shown, aside from distorting the budget allocation for financial year 2015/2016.

Further, Annex 2 shows other pending payables of Kshs.45, 555,690.00 outstanding since 2012/2013. It is not clear why grants remain outstanding since 2012/2013.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the Pending Bills totaling Kshs. 632,045.720 were not settled during the financial year 2013/2014 but were instead carried forward to financial year 2014/2015.

This occurred due to the following reasons:

i) Lack of Exchequer Issues in Development Vote.

ii) Insufficient budgetary provision in Recurrent Vote as the balance of Exchequer Issues was used to fund 20th Commonwealth games which were not budgeted for in financial year 2013/2014.

iii) Some Bills could not be processed due to insufficient budgetary provisions on the items.

It is also true that pending payables of Kshs. 45,555,690.00 were outstanding since 2012/2013 financial year. This was as a result of the Ministry not receiving the exchequer issue from Treasury to clear the payables. However, these now form part of historical pending bills. These arise due to many sporting programmes and demanding needs.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the Pending Bills totaling Kshs. 45,555,690.00 were not settled during the financial year 2013/2014 but were instead carried forward to financial year 2014/2015 lack of exchequer issues in development vote was reasonable.**
2. **The committee marked the matter as unresolved.**

Committee Recommendations

1. **Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide details of the transactions and will provide analysis of Kshs 45,555,690.00 in respect of unaccounted for transactions for 2013/2014 and 2014/2015 financial year within three months of the adoption of this report pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**

2. **Where the accounting officer fails to provide an explanation, they should be surcharged Kshs 45,555,690.00 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

162. Unreconciled Rent Payments

Records maintained by the Ministry indicate an amount of Kshs.1, 893,079.19 as outstanding rent payable to Industrial and Commercial Development Corporation (ICDC) - Uchumi House. However, the statement of account from ICDC as at 30 June 2015 and other correspondences between the Ministry and ICDC revealed outstanding rent arrears of Kshs.38,347,952.61 resulting in an unreconciled difference of Kshs.36,454,873.42.

Consequently, the accuracy and validity of the rent arrears of Kshs.38, 347,952.61 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer admitted that it was true that there were discrepancies in outstanding rent arrears payable to Industrial and Commercial Corporation (ICDC) – Uchumi House between the Ministry records and those of the Lessor. The same has since been reconciled and amounts to Kshs. 38,347,952.6 as at 30th June, 2016.

The rent could not be paid due to insufficient budgetary provisions during the period under review. However, the Ministry has since been availed with adequate budgetary provisions which have been used to clear the arrears together with rents for subsequent months vide the attached copy of payment voucher No. 2148 of 6th June, 2017.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the rent could not be paid due to insufficient budgetary provisions during the period under review, but, the Ministry has since been availed with adequate budgetary provisions which have been used to clear the arrears together with rents for subsequent months of Kshs. 38,347,952.60 was sufficient**
2. **The committee marked the matter as unresolved.**

Committee Recommendation

Accounting officers must at all times ensure that they 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.

163. Disbursements to Pan African Federation of Film Makers

The Government, on 23 December 2013, through the Ministry of Foreign Affairs and International Trade and Ministry of Sports, Culture and The Arts, entered into a Memorandum of Understanding (MOU) with Pan-African Federation of Film Makers (FEPACI) on the establishment of FEPACI Secretariat in Kenya for four (4) years, at a cost of Kshs.84, 000,000.00 per year. The main objective of the financing agreement was to represent the interests of African film makers in key forums such as African Union, African Governments, NEPAD and public broadcasting organizations. However, the Ministry disbursed Kshs.83, 485,637.00 to FEPACI instead of the agreed Kshs.84, 000,000.00.

Although the amount disbursed has been reflected in the privately audited financial statements of FEPACI as at 30 June 2015, in the absence of itemized budget and expenditure returns to the Ministry, utilization and accountability of the funds could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the Government on 23rd December, 2013, through the Ministry of Foreign Affairs and International Trade and the Ministry of Sports, Culture and the Arts, entered into a Memorandum of Understanding (MOU) with Pan African Federation of Film Makers (FEPACI) on the establishment of FEPACI Secretariat in Kenya for four (4) years at a cost of Kshs. 84,000,000 (eighty-four million shillings). The objective being to represent the interests of African Film Makers in Key Forums.

The Ministry made a payment of Kshs. 83,485,637 instead of Kshs. 84,000,000 due to lack of enough liquidity during the period under review. The money was paid as a grant to FEPACI which has since categorized its expenditure as evidenced by their annual report and Financial Estimates for the year ended 30th June, 2015**.** The documents have since been submitted to the auditor for scrutiny.

Committee Observation and Finding

The explanation by the Accounting Officer that the rent could not be paid due to insufficient budgetary provisions during the period under review.but the Ministry made a payment of Kshs. 83,485,637 instead of Kshs. 84,000,000 due to lack of enough liquidity during the period under review was sufficient.

Committee Recommendation

The National Treasury must at all times endeavor to disburse funds allocated to a state department in good time to facilitate the smooth running of activities.

Other Matter

164. Grounded Motor Vehicles

Although Section 129 of the Public Procurement and Disposal Act, 2005 provides guidelines and procedures for disposal of unserviceable and obsolete stores and equipment, a physical audit inspection exercise carried out at the Permanent Presidential Music Commission (PPMC) compound revealed that four (4) Motor vehicles GK A756M, GK A905P and GK A717G with undetermined values were lying at their yard with no indication of whether those vehicles would be repaired or disposed-off as provided for in the Act. Further, GK A756M has been lying at the yard for over three (3) years.

The vehicles' details are as follows:

Registration No.	Make	Department	Period
GK A717G	Peugeot	Department of Culture	2 months
GK A372P	Mitsubishi	National Archives	3 months
GK A905P	Nissan ExTrail	Permanent Presidential Music Commission	3 months
GK A756M	Blue bird	Headquarters	over 3 years

Besides the clear depreciation in value, such vehicles are also not contributing towards the achievement of the Ministry's annual objectives.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that four (4) motor vehicles GK A372P, GK A756M, GK A905P and GK A717G with undetermined values were lying at Permanent Presidential Music Commission yard unused for a considerable time. It is also true that GK A756M has been lying at the yard for over three (3) years. It is further true that apart from the depreciation, the vehicles were idle and contributing less towards the Ministry's objectives.

The Ministry has since repaired GK A372P and GK A717G and the vehicles are now being used. The vehicle GKA 756M is serviceable as per mechanical assessment and will be repaired as soon as funds are available. The other vehicle GK A905P has undergone valuation by the mechanical Engineer from the Ministry of Transport and Infrastructure and is pending disposal.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the Ministry has (1) repaired GK A372P and GK A717G and the vehicles are now being used, (2) The vehicle GKA 756M is serviceable as per mechanical assessment and will be repaired as soon as funds are available and, (3) the other vehicle GK A905P has undergone valuation by the mechanical Engineer from the Ministry of Transport and Infrastructure and is pending disposal.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

Within three months of adoption of this report, the Accounting Officer must provide details of the status of the vehicles to the Auditor General in respect of Grounded Motor Vehicles pursuant to the provisions of section 68(2) (n) of the Public Finance Management Act, 2012.

165. Internal Control Weaknesses

The Ministry does not have proper systems and structures necessary for running the Ministry, including an Audit Committee, Information Technology (IT) Policy for management and control of IT functions to assure data integrity.

My opinion is not qualified in respect of these matters.

Submission by Accounting Officer

The Accounting Officer submitted that as far as the Internal Control Measures is concerned, the Ministry has put in place a functional Audit Committee and a Budget Implementation Committee. A Ministerial ICT Advisory Committee has been put in place to look into issues pertaining to Information Technology (IT) Policy for Management and Control of IT functions through letter Ref. No. MOSCA/6/2 (C). VOL I dated 16th October, 2014.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that a Ministerial ICT Advisory Committee has been put in place to look into issues pertaining to Information Technology (IT) Policy for Management and Control of IT functions through letter Ref. No. MOSCA/6/2 (C). VOL I dated 16th October, 2014 was acceptable.**
2. **The Committee marked the matter as resolved**.

Committee Recommendations

Accounting officers must at all times ensure that they prepare a strategic plan for the entity in conformity with the medium term fiscal framework and fiscal policy objectives of the national government pursuant to the provisions of section 68(2)(g) of the Public Finance Management Act, 2012.

10.0. MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES

THE FINANCIAL STATEMENTS FOR VOTE 114

Mr. Nelson Marwa, the Accounting Officer for Vote 114, the Ministry of Labour, Social and Social Security and Services accompanied by Dr Ibrahim M Mohammed the Accounting Officer and the Principal Secretary State Department for Labour, James N Njogu; Supply Chain Management Officer, S.A Njue; Senior Principal Finance Officer, Jane Thiga; Deputy Director Social Development, Judy Ndungu; Deputy Director In Charge Of Children, Musa Uyawdusi; Deputy Director-Department Of Labour, Mutemi Ngoo; Senior Children Officer, Samuel Mungui; Accountant, Cecilia Mbaka; DDSD, Samuel Thuula; DCSHS, Alice Mwaniki; SDSP appeared before the Committee on 19th October, 2018, to adduce evidence on the audited Financial Statements of Vote 114 Labour, Social Security and Services for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

166. Differences between the Amounts Transferred to Other Government Units

The statement of receipts and payments reflects a figure of Kshs.13, 726,714,725.00 as transfers to other Government units. This amount differs with the trial balance figure of Kshs.13, 342,765,032.00 by an unexplained difference of Kshs.338, 949,693.00. Further, analysis of the amounts transferred to other Government units indicated a figure of Kshs.13,726,714,725.00 while the audited financial statements for the respective entities reflect total receipts of Kshs.13,577,618,556.00 resulting in differences of Kshs.570,849,425.00 (over) and Kshs.432,367,834.00 (under) as follows:

Transfers to other Government units				
Entity	Ministry F/S Kshs.	Entity F/S Kshs.	Over Kshs.	Under Kshs.
OVC-CT	6,037,521,647	5,466,672,222	570,849,425	-
Older Persons–OP-CT	5,217,830,000	5,637,990,334	-	420,160,334
NCPWD	1,223,400,000	1,223,400,000	-	-
NCCS	56,200,000	57,792,500	-	12,207,500
NITA	425,500,578	425,500,579	-	-

CWSK	761,250,000	761,250,000	-	-
DOSH FUND	5,012,500	5,012,500	-	-
TOTAL	13,726,714,725	13,577,618,556	570,849,425	432,367,834

The material differences between the Ministry records and the other units have not been reconciled. As a result, the accuracy, propriety and accountability of the transfers to other Government Units could not be confirmed.

Submissions by the Accounting Officer

The accounting officer admitted that it was true that the amounts reported in the statement of receipts and payments reflects a figure of Kshs.13,726,714,725.00 as transfers to other Government units which differs with the trial balance figure of Kshs.13,342,765,032.00 the differences has so far been reconciled and agreed with the financial statements.

CT OVC and CT OP being Cash Transfers for orphans and Vulnerable Children and Cash transfers to Older Person respectively are programs implemented within the ministry. The programmes are therefore not considered as separate entities with different financial statement. Nevertheless, the difference reported as over and under transfers resulted from discrepancy in itemization of the chargeable account in the budget. Both programs are in the same categories of Cash Transfers.

The Ministry transferred/disbursed funds to the National Council for Children Service in two tranches totaling Kshs 56,200,000 as reported in the Ministry Financial Statements. The details of the transfers are as per attached copies of payment vouchers together with approvals**. (Annex 166.1&2).**The difference should have been Kshs 1,592,500 and not Kshs 12,207,500 as reported in the Audit report.

Committee Observations and Findings

1. **The Committee noted that despite the explanations by the Accounting Officer to the effect that the difference reported as over and under transfers resulted from discrepancy in itemization of the chargeable account in the budget and that both programs are in the same categories of Cash Transfers, the explanation is unsatisfactory owing to the fact that reconciliation statements were not submitted in time to support the submission.**
2. **The committee therefore notes that the issue remains unresolved and reconciliation statement should be provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months

after close of the Financial Year as provided for in Article 229 (4)(h), and section 81 4(a) of the Public Finance Management Act 2012.

167. Pending Bills

The pending bills amounted to Kshs.362, 447.830.10 for both the Recurrent and Development Vote 1141 which were carried forward to 2015/2016 financial year. Had the bills been settled and expenditure charged to the account for FY 2014/15, the statement of receipts and payments would have reflected a reduced surplus of Kshs.451,738,514.90 instead of Kshs.814,186,345.00 now shown. Further the schedule of pending bills did not indicate contract numbers or even invoices to support them. Further during the year 2014/2015, the Ministry paid debts totaling Kshs.5, 291,190.00 comprising of Kshs.2, 424,690.00 for advertising and Kshs.2, 866,500 for flowers relating to the period between 2011-2013. It was observed that these debts had never been declared as pending bills in the previous financial years. Consequently, the validity and propriety of the pending bills of Kshs.362, 447,830.10 and the debts paid of Kshs.5, 291,190.00 could not be confirmed.

Submission by the Accounting Officer

The accounting officer admitted that it was true true that the Ministry at the end of 2014/2015 Financial Year had pending bills totaling to Kshs. 362,447,830.10. It is also true that these pending bills were carried forward to 2015/2016 Financial Year. The main reason for non-payment of these bills was due to shortfall of exchequer issued from the National Treasury. The Recurrent Vote actual Exchequer receipts during the 2014/2015 Financial Year were Kshs. 8,336,300,000 against the Net Budget of Kshs. 8,688,995,289 for the period under review. This resulted to the Ministry incurring pending bills to the tune of Kshs. 362,442,830.10 as per the attached List of Pending bills. However, the Pending bills have been settled as per the attached list**.**

Committee Observations and Findings

1. **The Committee noted that despite the fact that the pending Bills had been settled, two payment vouchers relating to Advertising and flowers which were made in support of the payment could not be traced.**
2. **The Accounting Officer did not explain the debt of Kshs 5,291,190 which was purportedly incurred in the procurement of Advertisement and flowers the period of 2012/2013 and subsequently paid as a pending bill in the FY 2014/2015.**
3. **The Accounting Officer during the year under review was Mr. Ali Noor Ismail.**
4. **The matter relating to the Pending Bills of Kshs 5,291,190 remains unresolved.**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should invoke power assigned under section 13 (1)(d) of the Public Finance Management Act 2012 to compel Mr. Ali**

Noor Ismail to provide within three months after adoption of this report, the basis for making a payment totaling Kshs 5,291,190 used for the purported procurement of advertising and flowers.

2. **Where no satisfactory explanation is provided to the CS National Treasury and Auditor General within the stipulated time, Mr. Ali Noor Ismail should be surcharged pursuant to section 65 of the Public Audit Act and prosecuted for financial misconduct pursuant to section 198(1)(i) of the Public Finance Management Act, 2012.**
3. **The ECC and DCI are directed to carry out an investigation relating to the payment totaling Kshs. 5, 291, 190 used for advertising and flowers with a view to establishing whether there was a breach of law initiating prosecution against person found culpable.**

168. Irregular Lease Payments

During the year under review, the Ministry paid Kshs.68, 046,579.00 for the rented office spaces at Social Security House. However, a review of the lease agreements for the respective floors rented revealed that the actual payments totaled Kshs.27, 750,737.40 while the total amount according to the lease agreements should have been Kshs.26, 070,781.92. The resultant overpayment of Kshs.1, 679,955.48 ought to be recovered. Further, payments totaling Kshs.12, 171,508.80 were below the amounts in the respective lease agreement total of Kshs.16, 639,968.00 by Kshs.4, 468,459.20. In addition, two lease agreements were not availed for audit review for payments totaling Kshs.22, 983,886.20. In the circumstances, the accuracy, validity and propriety of the lease payments could not be ascertained.

Submission by Accounting Officer

The accounting officer admitted that it was true that the Ministry paid Kshs. 68,046,570.00 for the rented office spaces at National Social Security House. It is also true that according to the lease agreement the amount due and payable for the F/Y 2014/2015 should have been Kshs. 26,070,781.92, while the actual payment made was Ksh.27, 750,737.40 resulting to a difference of Ksh.1, 679,955.48. Since the lease payment runs for 6 years payable on quarterly basis with effect from 1st January, 2013 – December, 2018, the resultant Ksh.1,679,955.48 was treated as a pre-payment for the subsequent quarter as the Ministry continues to occupy the said premises.

Committee Observations and Findings

1. **The explanation of treatment of the resultant difference of Ksh.1, 679,955.48 between the actual payment of Ksh.27, 750,737.40 and Kshs. 26,070,781.92 as pre-payment is not satisfactory since it was not supported by any lease agreement.**
2. **The Ministry made a total payment of Kshs.12, 171,508.80 against a lease agreement of Kshs.16, 639,968.00 resulting to an underpayment of Kshs.4, 468,459.20.**

3. **Two lease agreements totaling Kshs.22, 983,886.20 were not availed to the auditor for review.**
4. **The Accounting Officer during the year under review was Mr. Ali Noor Ismail.**

Committee Recommendations

1. **The Accounting Officer should ensure that the resultant difference of Kshs.1, 679,955.48 which was purportedly paid as a prepayment is fully recovered from Social Security House within three months of adoption of this report.**
2. **The Accounting Officer must at all times ensure all lease payments are made in accordance with the lease agreements and any prepayments should be supported by the lease agreements.**
3. **The Cabinet Secretary National Treasury should compel Mr. Ali Noor Ismail to provide within three months of adoption of this report, an explanation for the failure to provide the lease agreements for review.**
4. **Where no satisfactory explanation is provided to the CS National Treasury and Auditor General within the stipulated time, Mr. Ali Noor Ismail should be investigated and if found culpable, be prosecuted for financial misconduct relating to failure to provide information under the officer's control pursuant to section 198(1)(k) of the Public Finance Management Act, 2012.**
5. **The EACC and DCI are directed to carry out an investigation relating to the payment.**

169. Irregular and Inconsistent Basic Salaries

169.1 Analysis of the payroll data provided revealed that one hundred and ninety nine (199) officers were earning a higher basic salary than what was stipulated in the salary scale structure for their job groups which as at 30 June 2015 totaled Kshs.8, 959,195.15. 169.2 Comparison of IPPD Payroll Records with the Trial Balance Further, the IPPD payroll records reflected total employee compensation of Kshs.1, 517,668,269.00 while the trial balance reflected Kshs.1, 464,174,175.00 resulting in a difference of Kshs.53, 494,095.00. No reconciliation has been done for the two sets of records. In the circumstance, the accuracy and propriety of the employee compensation could not be confirmed.

Submissions of the Accounting Officer

The accounting officer admitted that it was true that one hundred and ninety-nine (199) officers were earning a higher basic salary than what was stipulated in the salary scale structure for their job groups. These payments were occasioned by belated salary arrears on promotions and releases of salaries on conclusion of disciplinary cases. The personal files for the one hundred and ninety-nine (199) officers have been verified.

Committee Observation and Finding

The Committee was informed by the Accounting Officer that the personnel file for the 199 officers who were earning a higher basic salary than what was stipulated in the salary scale structure for their job groups had been verified but not yet availed to the Auditor-General for review.

Committee Recommendations

1. **The current Accounting Officer should avail the personnel file for the 199 officers who were earning a higher basic salary than what is stipulated in the salary scale other than what was stipulated in the salary scale structure to the Auditor-General for review.**
2. **The current Accounting Officer must at all times provide unrestricted access of all documents to the Auditor General as provided for in section 9(1e) of the Public Audit Act 2015.**

169.2 Comparison of IPPD Payroll Records with the Trial Balance

Further, the IPPD payroll records reflected total employee compensation of Kshs.1, 517,668,269.00 while the trial balance reflected Kshs.1, 464,174,175.00 resulting in a difference of Kshs.53, 494,095.00. No reconciliation has been done for the two sets of records. In the circumstance, the accuracy and propriety of the employee compensation could not be confirmed.

Submission of the Accounting Officer

The accounting officer admitted that it was true that the IPPD payroll records reflected total employee compensation of Kshs 1,517,668,269.00 while the trial balance reflected Kshs 1,464,174,175.00 resulting in a difference of Kshs 53,494,095.00. However, at the time of running the trial balance, the salary journal for June 2015 had not been captured in IFMIS and thus the difference. Copies of IPPD salary by-products for all the months including the month of June 2015 which was not reflected in the trial balance have been attached**.**

Committee Observations and Findings

1. **The explanation by the Accounting Officer that at the time of running the trial balance, the salary journal for June 2015 had not been captured in IFMIS is not convincing since the Accounting Officer has a period of three months after the close of the financial year within which all financial statements should be prepared and submitted to the Auditor General.**
2. **The resulting difference of Kshs 53,494,095.00 was paid through a payment voucher and not the IPPD system. Further the the explanation of the matter by the Accounting officer is not satisfactory.**

Committee Recommendations

1. **Accounting Officers 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) of the Constitution and section 81 (4)(a) of the Public Finance Management Act 2012 .**
2. **The erstwhile Accounting officer Mr. Ali Noor Ismail should provide a satisfactory explanation of the resultant difference of Kshs. 53,494,095.00 to the Auditor General.**
3. **Upon analysis by the Auditor General, any officer found to have been overpaid, the cash should be recovered.**

170. Outstanding Imprests

The statement of financial assets for the year ended 30 June 2015 reflects a balance of Kshs.12, 089,334.25 relating to outstanding imprests while imprests records reviewed indicated a balance of Kshs.7, 689,711.60. The resultant difference of Kshs.4, 399,622.65 has not been reconciled or explained. Further, imprests totaling Kshs.714, 749.90 have been outstanding since financial year 81 2013/2014. In addition, imprests amounting to Kshs.1, 574,988.00 were issued to officers before surrender of previous ones. No reasons have been provided for failure to adhere to the financial regulations governing the issuance of imprests.

Submission of the Accounting Officer

The accounting officer admitted that it was true that the statement of financial assets for the year ended 30 June 2015 reflects a balance of Kshs 12,089,334.25 relating to outstanding imprests while imprets records reviewed indicated a balance of Kshs 7,689,711.60.The resultant balance has been reconciled. The issuing of more than one imprest is regrettable and will not be repeated again. Attached is the reconciliation of the outstanding imprests.

A letter to the Director Human Resource and Development to recover the outstanding imprests is attached.

Committee Observations and Findings

1. **There was a resultant difference of Kshs.4, 399,622.65 between the imprest records reviewed by the Auditor and outstanding imprest held by various officers.**
2. **The Accounting Officer failed to effectively manage and control issues of imprest by issuing a further imprest of Kshs.1, 574,988.00 of officers who had not surrendered previous imprest contrary to Regulation 93(8) of the PFM (National Government) Regulation 2015.**

3. **The Accounting Officer failed to recover outstanding imprest within 48 hours pursuant to the provisions of Regulation 93(7) of the PFM (National Government) Regulation 2015.**
4. **The Accounting Officer during the year under review was Mr. Ali Noor Ismail.**
5. **The issue remains unresolved.**

Committee Recommendations

1. **Mr. Ali Noor Ismail, the Accounting Officer during the year under review should be held responsible for issuing a further imprest of Kshs.1, 574,988.00 to officers who had not surrendered previous imprest contrary to Regulation 93(8) of the PFM (National Government) Regulation 2015.**
2. **The Accounting Officer has taken inordinately long period of time to recover the outstanding imprest.**
3. **The erstwhile Accounting Officer Mr. Ali Noor Ismail should be held liable for not recovering an outstanding imprest of Kshs. 2.5 million contrary to the provisions of 93(7) of the PFM Regulations (National Government) Regulation 2015.**

171. Accuracy and Completeness of the Financial Statements

171.1 Unconfirmed Cash Balances

The statement of assets reflect a cash balance of Kshs.300, 766.00 (Note 22B). However, the Ministry did not provide corresponding IFMIS records of the cash book balance as at 30 June 2015. In the absence of the IFMIS cash book balance, the accuracy of the cash balance of Kshs.300, 766.00 shown in the statement of assets could not be ascertained. Further, the trial balance reflects under cash and bank account balances of Kshs.7,849,689,410.55, Kshs.22,441,960,679.80 and Kshs.32,200,285.00 for recurrent, development and cash in hand respectively which have been omitted in the financial statements.

Submissions of the Accounting Officer

The accounting officer admitted that it was true that the statement of assets reflect a cash balance of Kshs 300,766.00 and its true the Ministry did not provide corresponding IFMIS record. By this time the cash management module in IFMIS had not been activated and therefore no IFMIS cash book could have been produced. Further the trial balances figures for the bank balances could not be agreed with the source documents because the bank reconciliation module in IFMIS was inactive. Nevertheless, the board of survey certificate confirming the cash and bank balances in the cash book as primary source of data is attached as confirmation of the figures in the financial statements**.**

Committee Observations and Findings

1. **The Accounting Officer did not provide complete financial records including statements of assets and corresponding IFMIS records to the Auditor General at the time of audit. This is contrary to the provisions of Article 229 (4)(h), and section 81 4(a) of the Public Finance Management Act 2012 which require that the Accounting Officer must submit financial statements to the auditor general within three months after close of the Financial Year.**
2. **The explanation by the Accounting Officer that IFMIS had not been activated and therefore no IFMIS cash book could have been produced was not convincing. This demonstrates incompetence on the part of the Accounting Officer and officers who are paid to prepare financial statements**

Committee Recommendations

1. **Accounting Officers must at all times provide complete financial records including statements of assets and corresponding IFMIS records to the Auditor General within the stipulated period of 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 discharge his/her responsibilities in management of Public finances as provided for in Section 68 of PFM Act 2012**

171.2 District Suspense Balances

The statement of assets reflects a district suspense account balance of Kshs.2, 606.855, 375.00 which differed with the trial balance figure of Kshs.1, 696,801,417.65 by Kshs. 910,053,957.00. Further, the analyses provided in support of the district suspense balance indicates a figure of Kshs.1,099,103,652.20 resulting in a difference of Kshs.1,507,751,722.80. The differences have not been reconciled. In view of the foregoing, the accuracy and completeness of the financial statements could not be ascertained.

Submission of Accounting Officer

The accounting officer admitted that it was true that the district suspense account balance of Kshs 2,606,855,375.00 in the financial statement differed with the trial balance figures. The balances include old balances brought forward from the financial year 2013/2014.The National Treasury through Public Financial Management Reforms constituted a task force to deal with the old balances which is still ongoing and the preliminary report on the old balances are as per attached**.**

Committee Observations and Findings:

1. **The District suspense account dating back to the financial year 2013/2014 has not been reconciled five years down the line despite the stipulated period of 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 explanation of the Accounting Officer that the National Treasury through Public Financial Management Reforms constituted a task force to deal with the old balances which is still ongoing was not convincing to the Committee.**
3. **The National Treasury's Task Force which was constituted in the FY 2015/16 to deal with old balances has taken inordinately long period of time to conclude its work.**

Committee Recommendations

1. **The District suspense account dating back to the financial year 2013/2014 should be reconciled and records submitted to the Auditor-General for review within a period of three months after adoption of this report.**
2. **The CS National Treasury should ensure that Task Force which was constituted in the FY 2015/16 to deal with old balances should complete its work within a period of nine (9) months from August 2018 that is by April 2019 and submit its report to the Auditor-General and the National Assembly.**

172. National Council for Children Services

The National Council for Children Services is a department under the Ministry of Labour, Social Security and Services.

172.1 Unsupported Disbursements to various Adoption Societies and Children Charitable Institutions

During the year 2014/2015, grants totaling Kshs.8, 200,000.00 were disbursed to various Adoption Societies and Children Charitable Institutions. However, there was no budget/work plan indicating how the grants were to be utilised and in a few expenditure returns seen the funds were used to buy cars, computers, travelling, seminars and workshops. Further, the criteria used to identify the beneficiary organizations have not been disclosed. In addition, an itemized budget showing how the grants were to be utilized and disclosure of the identification criteria and location of the respective institutions has not been provided for audit review. The beneficiary institutions were: 82 Grants to Adoption Societies and Children Charitable Institutions.

P.V.NO.	DATE	PAYEE	AMOUNT - KSHS.
2170	28.01.15	Little Angels Network	2,000,000.00
2170	28.01.15	Kenya to Kenya Peace Initiative	2,000,000.00
2170	28.01.15	Kenya Children's Home	2,000,000.00
2170	28.01.15	Buckner Adoption Society	2,000,000.00
5355	29.06.15	Amani Na Wema Children's Home	200,000.00

Total	**8,200,000.00**

In the circumstances, it has not been possible to confirm whether grants totaling Kshs.8, 200,000.00 went to the rightful beneficiaries and that they were used for the benefit of the adopted children.

Submissions of Accounting Officer

The accounting officer admitted that it was true that during the year 2014/2015, grants totaling **Kshs. 8,200,000.00** were disbursed to four Adoption Societies and one Children Charitable Institution (CCI).

The Adoption committee in the meeting held on 17th June, 2014 tasked the Department of Children's Services Secretariat to come up with a criteria on how the Government grant to strengthen and enhance local adoption would be utilized**.** On **10thJuly, 2014** vide letter **Ref. AFC/8/24 CVOL VII (2)** the Secretariat issued the Adoption Societies with a standardized way of utilizing the government grant. The letter stipulated that the societies could incur expenditures on payment of legal and Administrative fees for the adoption process, pre and post adoption training of adopting parents, capacity building of stakeholders, awareness creation and capital expenditure.

The criteria used to identify the beneficiary organizations was based on the premise that the five Adoption Societies were the only duly registered in the country at that particular time after having fully complied with the legal requirements. The Children Charitable Institution, Amani Wema Children's Home was identified as the home that had complied with the CCI Regulations, 2006 and having the best standard practices for care of children.

Therefore, the grants totaling to Kshs. 8,200,000.00 went to the rightful beneficiaries and were utilized for the intended purpose as demonstrated above.

Committee Observations and Findings

1. T**he grant totaling Kshs.8, 200,000.00 that was disbursed to four Adoption Societies and one Children Charitable Institution (CCI) in the FY 2014/2015 was not utilized for the right purpose. The money was used to buy cars, computers, travelling, seminars and workshops;**
2. **The Accounting Officer submitted that on 10th July, 2014 vide letter Ref. AFC/8/24 CVOL VII (2) the Secretariat issued the Adoption Societies with a standardized way of utilizing the government grant; and**
3. **The Adoption Societies and the Children Charitable Institution did not adhere to the content of the letter which stipulated that the societies could incur expenditures on payment of legal and Administrative fees for the adoption process, pre and post**

adoption training of adopting parents, capacity building of stakeholders, awareness creation and capital expenditure.

Committee Recommendations

1. **The Cabinet Secretary in charge of children's adoption affairs and Children's Charitable Institutions, should within three months of adoption of this report embark on developing a comprehensive national policy on Government support to adoption societies and children charitable institutions;**
2. **The four adoption societies and children charitable institutions, who benefited from the Government grant but violated the provisions on utilization of the funds as was provided for vide letter Ref. AFC/8/24 CVOL VII (2) from the Secretariat should not benefit from future Government support until cleared by the Auditor General; and**
3. **The Accounting Officer should within three months of adoption of this report develop guidelines that ensure only deserving institutions and rightful children benefit from such Government grants.**

172.2 Unsupported Expenditure

Audit of records maintained at the Embu West Sub-County Children's Office revealed that the office incurred expenditure totalling Kshs.756,100.00 on travelling expenses, motor vehicle repairs, and on general goods and services of Kshs.299,400.00, Kshs.265,500.00 and Kshs.191,200.00 respectively. However, no documentary evidence was provided to support the expenditure figures. In the absence of supporting documents, the propriety of the Kshs.756, 100.00 expenditure could not be confirmed.

Submission of the Accounting Officer

The accounting officer admitted that it was true that records maintained at the Embu West Sub-County Children's office revealed that the office incurred expenditure totaling Kshs 756,100.00 on travelling expenses, Vehicle repairs and general goods and services of Kshs 299,400.00, Kshs.265, 500.00 and Kshs 191,200 respectively. It was also true that no documentary evidence was provided to support the expenditure figures. However, the documents have been availed and verified.

Committee Observation and Finding

The Authority to Incur Expenditure (AIE) holder for Embu West Sub-County Children's office, failed to submit to the Auditor General with three months, documentary evidence to support the expenditure figures totaling to Kshs.756, 100 incurred in the FY 2014/15;

Committee Recommendation

The Accounting Officer should at all times ensure that AIE holders submit supporting documentary evidence within the stipulated time and adhere to responsibilities of AIE holders as contained in the PFM (National Government) Regulations 2015.

172.3 Doubtful Imprests

The imprests register maintained at National Council for Children Services offices revealed that imprests warrants totaling Kshs.4, 163,786.00 had not been recorded in the imprests register and therefore not accounted for. Further, imprests totaling Kshs.3, 640,301.00 were surrendered without following the required authorization and accounting procedures necessary for the management and control of imprests. The surrenders therefore were not in accordance with the Government regulations governing the issuance of imprests. In the circumstances, the validity and propriety of the expenditure incurred through imprests totaling Kshs.7, 804,087.00 could not be authenticated.

Submission of the Accounting Officer

The accounting officer admitted that it was true that the imprest register maintained by the National Council for Children Services as at 30th June 2015 did not record Imprests amounting to **Kshs. 4,163,786.00** in the imprest register book. It was also true that another set of Imprests amounting to **Kshs. 3,640,301.00** was surrendered without proper authorization by the relevant officers within the ministry.

The anomaly has since been corrected and all the above mentioned imprests were recorded and the necessary authorizations made. The imprest register and the imprests have been availed for audit review.

Committee Observations and Findings

1. **The imprest register maintained by the National Council for Children Services as at 30th June 2015 did not record Imprests amounting to Kshs. 4,163,786.00 in the imprest register book.**
2. **The Accounting Officer failed to effectively manage and control imprest by failing to register an imprest of 4,163,786.00 in the imprest register book and allowing surrender of another set of Imprests amounting to Kshs. 3,640,301.00 without proper authorization contrary to Regulation 93 of the PFM (National Government) Regulation 2015.**

172.4 Cash Balance

The cashbook of the National Council for Children Services reflects a cash balance of Kshs.9, 462,402.80 as at 30 June 2015. However;

i) Examination of the cashbook revealed that payments totaling Kshs.15, 180,870.00 were entered in the cashbook but, no payment vouchers were made available for audit review to support the payments.

ii) Further, payments totaling Kshs.6, 216,188.00 for the period 1 July 2014 to 30 June 2015 had not been posted in the cashbook.

iii) Although the cashbook had a closing balance of Kshs.134, 767.00 as at 30 June 2014, the opening balance for the year 2014/2015 reflects Kshs.513, 650.95 resulting in an unexplained difference of Kshs.378, 883.95. iv. In addition, the cash book closing balance of Kshs.9,462,402.80 as at 30 June 2015 was not certified by the annual Board of Survey Committee as required and no monthly bank reconciliation statements for the year 2014/2015 were produced for audit review. In view of the foregoing, the accuracy of the National Council for Children Services cash balance of Kshs.9, 462,402.80 as at 30 June 2015 could not be confirmed.

Submission of the Accounting Officer

(i) It was true that payments totaling Kshs. 15,180,870 were entered in the cashbook but no payment vouchers were availed at the time of the audit. However, the payments vouchers have been verified.

(ii) The unposted payments of Kshs. 6,216,188.00 in the cashbook have since been reconciled, posted in the cashbook updated and availed for audit review**.**

(iii) It was true that the cashbook had a closing balance of Kshs.134, 167.00 as at 30th June 2014 and the opening balance for 2015/16 reflected Kshs.513, 650.95 resulting into a difference of Kshs.378, 883.95. This was a casting error which has since been corrected as per attached cash book extract for the closing and opening balance for 2014/15 and 2015/16 financial years respectively.

(iv) It was true that the Cash Book balance as at 30thJune, 2015 of Ksh.9, 462,402.80 was not certified by board of Survey committee. This was an oversight which has since been corrected by having the boards of survey committee certify the Cash Book as required**.**

Committee Observations and Findings

1. **The Accounting Officer did not provide complete financial records including payment vouchers totaling Kshs. 15,180,870 to the Auditor General at the time of audit. This is contrary to the provisions of Article 229 (4)(h), and section 81 4(a) of the Public Finance Management Act 2012 which require that the Accounting Officer must submit complete financial statements to the Auditor-General within three months after close of the Financial Year.**

2. **The Accounting Officer failed to ensure timely reconciliation of unposted payments of Kshs. 6,216,188.00 at the time of audit.**

3. **The Accounting Officer also failed to ensure reconciliation of opening and closing cash book balances resulting into a difference of Kshs.378, 883.95 at the time of audit.**

4. **Further the Accounting Officer failed to ensure that cash book balance as at 30th June, 2015 of Ksh.9, 462,402.80 was certified by board of Survey committee.**
5. **The above failures clearly demonstrate the inability of the Accounting Officer to manage public finances. It also demonstrates incompetence of officers in the Accounts Department of the Ministry to discharge their functions including basic bookkeeping and reconciliation.**

Committee Recommendations

1. **Mr. Ali Noor Ismail has consistently demonstrated his inability to manage public finances. The Cabinet Secretary National Treasury should never at any time appoint Mr. Ali Noor Ismail as an Accounting Officer for any State Department/Government Agency. If Mr Noor is presently an accounting officer, his appointment should be revoked within three months of adoption of this report.**
2. **The Cabinet Secretary National Treasury should ensure that officers seconded to Accounts and Finance Departments of various MDAs are qualified and competent to discharge their responsibilities. Further, officers in Accounts and Finance Departments of MDAs should be members of ICPAK as provided for in Accountants Act No.10 of 2008 as amended through the Finance Act of 2018.**

173. Incomplete Research Institute Office Complex

Occupational Safety and Health Services of the Directorate of Occupational Safety and Health Services (DOSH) is a department of the Ministry of Labour and East African Affairs that is concerned with factory inspection, workers health and safety at work. In the year 2009/2010, the Directorate made a proposal to the Ministry for construction of a research institute office complex to assist it keep abreast with changing issues in as far as work environment, health and safety of workers is concerned.

174. Construction works

The construction of the project commenced on 28 February 2010 at an estimated cost of Kshs.480, 000,000 however, the expected completion date was not specified.

Submission of the Accounting Officer

It was true that the estimated cost of the project by the Ministry of Public works was Kshs 480,000,000.00. However, the expected date of completion was not specified since this was just an estimate of the expected cost of the project.

Committee Observations and Findings

1. **The construction of Occupational Safety and Health Services research institute office complex, which was proposed in the FY 2009/2010 and commenced on 28th**

February 2010 at an estimated cost of Kshs.480, 000,000 did not have a specified completion date.**

2. **The conceptualization of a construction project worth Kshs. 480 Million without a specified completion date demonstrates lack of proper project planning and management by the Government.**
3. **The explanation by the Accounting Officer that the expected date of completion was not specified since this was just an estimate of the expected cost of the project was not convincing since the tenets of project management requires that a project should have a definite start and completion date at the inception stage.**

Committee Recommendations

1. **The construction of Occupational Safety and Health Services Research Institute Office Complex, which was proposed in the FY 2009/2010 and commenced on 28th February 2010 at an estimated cost of Kshs.480, 000,000 should be fully funded and completed.**
2. **The CS National Treasury should establish project management teams in the MDAs whose mandate should include conceptualization of viable projects with definite completion timelines and adhere to the tenets of project management.**

175. Delay in Completion of Construction Works Due to Implementation of Builders Works in Phases

Although the construction of this project started in the financial year 2009/2010 the project is still not complete seven (7) years later. The builders' works were divided into five (5) phases with the construction being advertised, evaluated and awarded to different contractors per floor as follows:

Phase	Firm awarded	Contract period	Start date	Completion date	Contract sum (Kshs)
Phase 1	Lunao Enterprises Basement, Ground and 1st Floor	15/3/2010 - 15/10/2010	15/3/2010	14/8/2012	71,239,810.00
Phase 2	Makuyu Construction Ltd 2nd and 3rd Floor	17/7/2012-17/7/2013	17/7/2012	30/4/2014	77,931,974.40

Phase 3	Bluestream Enterprises 4th and Upper Level Floors	15/5/2014 - 15/9/2014	15/5/2014	18/11/2014	34,242,682.17
Phase 4	Bluestream Enterprises Ramp Fittings, Electrical & Mechanical Installations	3/3/2015 - 3/3/2015-22/6/2015	28/12/2015		140,377,360.60
Phase 5	Finishing Works not awarded				

However, approval by the Ministerial Tender Board Committee and rationale for this mode of construction has not been provided for audit review. The implementation of the builders' works starting with the basement, ground and first floor being done by a one contractor the second and third floors by another one and fourth and the upper levels by yet another contractor has led to delay, escalation of advertising and tendering costs and contract variations as follows:

Submission of the Accounting Officer

It was true that the construction work for the institute were being done in phases. This was based on funds allocated to the project in each financial year. In 2009/2010 financial year the treasury allocated Ksh 71,000,000 towards the cost of the project**.**Accordingly the Ministry advertised for the building works (Phase 1) through an open tender against the available funds which was adjudicated and awarded by the Ministerial Tender Committee (MTC) to Lunao Enterprises at a contract sum of Kshs 71,239,810.80. Phases 2 and 3 were awarded to M/s Makuyo construction Co Ltd and M/s Blue stream Enterprises Ltd at contract sums of Kshs68, 126,344.40 and 30,751,500.05 respectively. Phase 4 was awarded to Bluestream Enterprises Ltd at a contract sum of Kshs 140,337,360.66. Had the funds been availed at once, the project would have been implemented within 130 weeks.

Committee Observations and Findings

1. **The construction of Occupational Safety and Health Services research institute office complex, which was proposed in the FY 2009/2010 and commenced on 28th February 2010 at an estimated cost of Kshs.480, 000,000 is still not complete eight (8) years down the line.**

2. **The Ministerial Tender Committee (MTC) awarded the construction contact to Lunao Enterprises at a contract sum of Kshs 71,239,810.80. Phases 2 and 3 were awarded to M/s Makuyo construction Co Ltd and M/s Blue stream Enterprises Ltd at contract sums of Kshs68, 126,344.40 and 30,751,500.05 respectively. while Phase 4 was awarded to Blue stream Enterprises Ltd at a contract sum of Kshs 140,337,360.66.**
3. **The completion of the construction contact has been delayed due to delay in availing funds for its completion. Had the funds been availed at once, the project would have been implemented within 130 weeks.**
4. **The Accounting Officer failed to avail the Ministerial Tender Board Committee and rationale for awarding the contract to five contractors for audit review.**

Committee Recommendations

The construction of Occupational Safety and Health Services Research Institute Office Complex, which was proposed in the FY 2009/2010 and commenced on 28th February 2010 at an estimated cost of Kshs.480, 000,000 should be fully funded and completed within two (2) year after the adoption of this report to avoid any further costs and contract variations.

176. Contract variations

The original contract sums were varied several times and amounted to Kshs.20,006,737.78 up to phase three (3) as indicated below:

Phase	**Contract sum (Kshs)**	**Variation Order (Kshs)**	**Total (Kshs)**
Phase 1	64,536,284.34	6,703,525.66	71,239,810.00
Phase 2	68,126,344.40	9,805,630.00	77,931,974.40
Phase 3	30,751,100.05	3,497,582.12	34,242,682.17
Phase 4	140,377,360.60	On-going	140,377,360.60
Phase 5	**At tendering stage**		
Total	**303,791,089.40**	**20,006,737.78**	**323,791,827.20**

Submission of the Accounting Officer

It was true there was a contract variation for phase 2 carried out by M/S Makuyo Construction Ltd amounting to Kshs 9,805,630 and phase 3 by M/s Bluestream Enterprises Ltd for Kshs 3,497,582.2 on approval by Ministerial Tender Committee (MTC). However, M/s Lanao Enterprises were paid Kshs 70,336,593.35 against a contract sum of Kshs 71,239,810.80, leaving a balance of Kshs.903, 217.45 after analysis of statement of final accounts by the Ministry of Public Works. It is not true that the contract sum for M/s Lunao Enterprises was Ksh 64,536,284.34, the construct sum was Kshs 71,239,810.80 as correctly reflected in paragraph 175 of your Report above.

It was not true that the Bills of Quantity (BQs) for phase 1 were not availed for audit review while those of other phases were scanty enclosed are BQs for phase 1.

The final accounts for phase 1 prepared by the County Quantity surveyor, county works office, Nairobi gives a detailed analysis of the total expenditure of the project including provisional sum originally estimated at Kshs. 22,010,000.

Committee Observations and Findings

1. **The construction contract sum was varied from Ksh. 303,791,089.40 to 323,791,827.20 representing a contract variation of Ksh. 20,006,737.78.**
2. **The variation of the completion of the construction contract is attributable to delay in availing funds for its completion.**

Committee Recommendation

The construction of Occupational Safety and Health Services Research Institute Office Complex, which was proposed in the FY 2009/2010 and commenced on 28th February 2010 at an estimated cost of Kshs.480, 000,000 should be fully funded and completed within two (2) year after the adoption of this report to avoid any further costs and contract variations.

177. Poor Workmanship and Record Keeping

An audit inspection undertaken on 10 February, 2016, revealed that the signage listing the contractors had not been erected as required and evidence of poor workmanship was observed especially the construction of basement, ground and the first floor as follows:- Phase 1 Phase one involved the construction of the basement, ground and the first floor. However, tender documents, site meetings and progress reports were poorly maintained making difficult for the project file to be followed.

Phase 1 was supposed to start on 15 March 2010 and end on 15 October 2010, a period of 30 weeks. However, the contract was terminated on 14 August 2012 which was one year and ten months beyond the agreed completion dates. No final account was issued by the project manager indicating the work done as per the BQs and work not done and the handing over minutes were also not seen.

Phase II and III The same issues were observed in phase II and III where the start and completion dates were exceeded and no final accounts were prepared 85 discharging the contractors. Handing over minutes were also not availed for audit review. The basement floor constructed at a total cost of Kshs.71,239,810.00 was at the time of the audit inspection, full of drainage water due to poor waterproofing, poorly reinforced concrete base which was as at the time of the audit being reconstructed by the contractor for phase four (4). The foundation of the building was therefore not properly done and the stability of the building is questionable thus endangering the safety of workers of which the directorate is mandated to inspect/detect in other workplaces. Available information obtained indicates that a submersible pump has been installed for pumping water from the basement. Bills of Quantities (BQs) for phase 1 were also not availed for audit review while those for the other phases were scanty. The total cost of advertising for each phase could not be established owing to the absence of the necessary documentation. A site clearance (Element No. 1) Bill of Quantities made available in respect of M/s Lunao Enterprises indicated provisional sums totaling Kshs.22, 010,000.00 which could not be confirmed as follows:

Provisional Sums	**Amount (Kshs)**
Prime cost sum for both electrical and mechanical works	8,500,000.00
Main contractors profits (3 percent)	255,000.00
Project management expenses	500,000.00
JBC fluctuations	5,000,000.00
Contingencies	7,500,000.00
Total	**22,010,000.00**

The project cost is likely to escalate from the estimated cost of Kshs.480,000,000.00 considering that work on phase four (IV) has not been completed and the contractor was not on site and phase five (V) is yet to be awarded after being advertised. In view of the foregoing, the propriety of the contract costs and value for money for the works carried out could not be confirmed.

Submissions of the Accounting Officer

The final accounts for phase I prepared by the County Quantity Surveyor, County Works Office, Nairobi and gives a detailed analysis of the total expenditure of the project including provisional sum originally estimated at Kshs. 22,010,000.00. Further, the contractual work has been carried out as required and all the requisite tests have been carried out to ensure the building is sound structural Integrity.

Committee Observations and Findings

1. **The project cost is likely to escalate from the estimated cost of Kshs.480,000,000.00 considering that work on phase four (IV) has not been completed and the contractor was not on site and phase five (V) is yet to be awarded after being advertised; and**
2. **The Committee noted that the construction of office complex for Occupational Safety and Health Services which is a government agency mandated with ensuring occupational safety has been marred with poor workmanship and exposed to possible occupational safety hazards;**
3. **The basement floor constructed at a total cost of Kshs.71,239,810.00 was at the time of the audit inspection, full of drainage water due to poor waterproofing, poorly reinforced concrete base which was as at the time of the audit being reconstructed by the contractor ;**

Committee Recommendations

1. **The construction of Occupational Safety and Health Services Research Institute Office Complex, which was proposed in the FY 2009/2010 and commenced on 28th February 2010 at an estimated cost of Kshs.480, 000,000 should be fully funded and completed within two (2) year after the adoption of this report to avoid any further costs and contract variations;**
2. **The Accounting Officer must ensure that the construction of the office complex is undertaken following the right standards and any poor workmanship corrected to avoid possible occupational safety hazards; and**
3. **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.**

Other matter Basis for Qualified Opinion

178. Budgetary Control and Performance

178.1.1 Revenue

Item	**Budget (Kshs)**	**Actual (Kshs)**	**Excess/(Shortfall) (Kshs)**	**Excess/(Shortfall) percent**
Exchequer Recurrent	8,688,995,289.00	8,336,300,000.00	(352,695,289.00)	4 percent
Exchequer Development	11,682,523,636.00	10,678,728,230.00	(1,003,795,406.00)	9 percent
Proceeds	Nil	364,264,428.00	364,264,428.00	100percent

from Domestic Borrowings				
Proceeds from foreign borrowings	100,000,000	71,614,219.00	(28,385,781.00)	28 percent
Proceeds from Sale of assets	104,814,480.00	63,143,019.00	(41,671,461.00)	40percent
Other Receipts	109,600,000.00	3,459,700.00	(106,140,300.00)	86 97 percent
Total	**20,685,933**	**517,509,596.00**	**1,168,423,809.00**	**6 percent**

178.1.2 Recurrent and Development Revenue

The Ministry's approved recurrent budget reflected exchequer receipts of Kshs.8,688,995,289.00, however the actual receipts amounted to Kshs.8,336,300,000.00 resulting in a shortfall of Kshs.352,695,289.00 or 4 percent. The shortfall was largely attributable to failure to receive exchequer issues. Similarly, the Ministry had budgeted for development revenue of Kshs.11,682,523,636.00 but received Kshs.10,678,728,230.00 resulting in a shortfall of Kshs.1,003,795,406.00 or 9 percent. The shortfall was attributed to lengthy World Bank procedures which affected receipts for the Children's Department and the Social Protection Secretariat.

Submissions of the Accounting Officer

The Ministry's approved recurrent budget reflected exchequer receipts of Kshs.8,688,995,289.00, however the actual receipts amounted to Kshs.8,336,300,000.00 resulting in a shortfall of Kshs.352,695,289.00 or 4 percent. The shortfall was largely attributable to failure to receive exchequer issues.

Similarly, the Ministry had budgeted for development revenue of Kshs.11,682,523,636.00 but received Kshs.10,678,728,230.00 resulting in a shortfall of Kshs.1,003,795,406.00 or 9 percent. The shortfall was attributed to lengthy World Bank procedures which affected receipts for the Children's Department and the Social Protection Secretariat.

Committee Observations and Findings

1. **The Ministry's approved recurrent budget reflected exchequer receipts of Kshs.8,688,995,289.00, however the actual receipts amounted to Kshs.8,336,300,000.00 resulting in a shortfall of Kshs.352,695,289.00 or 4 percent;**
2. **The shortfall was largely attributable to failure to receive exchequer issues. Similarly, the Ministry had budgeted for development revenue of Kshs.11,682,523,636.00 but received Kshs.10,678,728,230.00 resulting in a shortfall of Kshs.1,003,795,406.00 or 9 percent; and**
3. **The shortfall was attributed to lengthy World Bank procedures which affected receipts for the Children's Department and the Social Protection Secretariat.**

Committee Recommendations

1. **The CS National treasury should ensure that funds are released to MDAs in time to avoid delays in implementation of Government projects;**
2. **The Accounting officers implementing donor funded activities such as the World Bank projects should put in place project teams that are conversant with conditionality and procedures of such projects.**

178.1.3 Appropriations-in-Aid (AIA)

Further, the Ministry collected Kshs.364, 264,428.00 in respect of proceeds from domestic borrowings which had not been budgeted for. In addition, three (3) items with a total budget of Kshs.314, 414,480.00 only collected Kshs.138, 216,938.00 resulting in a shortfall of Kshs.176, 197,542.00 or 56 percent. The exchequer underfunding and under collection of AIA impacts negatively on the planned and budgeted services and development projects.

Submission by Accounting Officer

The accounting officer stated that further, the Ministry collected Kshs.364,264,428.00 in respect of proceeds from domestic borrowings which had not been budgeted for. In addition, three (3) items with a total budget of Kshs.314,414,480.00 only collected Kshs.138,216,938.00 resulting in a shortfall of Kshs.176,197,542.00 or 56 percent.

The exchequer underfunding and under collection of AIA impacts negatively on the planned and budgeted services and development projects

Item	Budget (Kshs)	Actual (Kshs)	Over/ under(Kshs)	Over/ under percent
Compensation of Employees	1,634,737,004.00	1,464,174,175.00	170,562,829.00	10 percent
Use of goods	3,300,679,827.00	2,383,893,325.00	916,786,502.00	28 percent

and Services				
Transfers to Other Govt Units	14,198,172,129.00	13,726,714,725.00	471,457,404.00	3 percent

Committee Observations and Findings

1. **Ministry collected Kshs.364, 264,428.00 in respect of proceeds from domestic borrowings which had not been budgeted for in the FY;**
2. **Items with a total budget of Kshs.314, 414,480.00 only collected AIA of Kshs.138, 216,938.00 resulting in AIA revenue shortfall of Kshs.176, 197,542.00 or 56 percent;**
3. **The exchequer underfunding and under collection of AIA impacts negatively on the planned and budgeted services and development project**

Committee Recommendations

1. **The Accounting Officer should prepare realistic AIA revenue targets that they are sure of collecting since under collection of AIA negatively impact the implementation of budget;**
2. **The Accounting Officer as the receiver of revenue should ensure that the designated collectors of AIA put maximum effort to collect the revenues;**

179. Expenditure

Item	**Budget (Kshs)**	**Actual (Kshs)**	**(Over)/ under (Kshs)**	**Over/ under percent**
Compensation of Employees	1,634,737,004.00	1,464,174,175.00	170,562,829.00	10 percent
Use of goods and Services	**3,300,679,827.00**	2,383,893,325.00	916,786,502.00	28 percent
Transfers to Other Govt Units	14,198,172,129.00	13,726,714,725.00	471,457,404.00	3 percent
Other Grants and Transfers	400,812,933.00	400,257,669.00	555,264.00	0.1 percent
Acquisition of	1,131,880,500.00	732,217,814.00	399,662,686.00	35 percent

Assets				
Total	**20,666,282,393.00**	**18,707,257,708.00**	**1,959,024,685.00**	**9 percent**

The Ministry had budgeted to spend Kshs.20, 666,282,393.00 but actual expenditure amounted to Kshs.18, 707,257,708.00. The under expenditure was attributed to late receipt of exchequer issues leading to pending bills and unimplemented projects and services.

Committee Observation

The Ministry had budgeted to spend Kshs.20, 666,282,393.00 but actual expenditure amounted to Kshs.18, 707,257,708.00. The under expenditure was attributed to late receipt of exchequer issues leading to pending bills and unimplemented projects and services.

Committee Recommendation

The CS National treasury should ensure that funds are released to MDAs in time to avoid delays in implementation of Government projects

11.0. MINISTRY OF ENERGY AND PETROLEUM

FINANCIAL STATEMENT FOR VOTE 115

Eng. Joseph K. Njoroge, the Accounting Officer appeared before the Public Accounts Committee of the 11th Parliament accompanied by the following officers Andrew Kamau; Principal Secretary (Petroleum), Michael W. Mwangi; Director Administration, Mary N. Mwangi; Senior Assistant Director Supply Chain, Scholastica Maiteka; Principal Internal Auditor, Mary Wanyonyi; Chief Accountant, Veronica Kamau; Chief Accountant, Timothy Gakua; Chief Economist, Elisha Muragi; Senior Finance Officer, Ngundo J. Muriithi; Senior Accountant, John M. Murigi; Senior Accountant, Joseph Ndolo; CS Geologist, Fauzia Shauri; DS Petroleum to adduce evidence on the audited Financial Statements of Vote 115 the Ministry of Energy and Petroleum for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basisfor Qualified Opinion

180. Tax Revenues

The statement of receipts and payments reflects tax revenues amounting to Kshs. 4,720,932,718, as disclosed under note 1 to the financial statements. This differs with the tax revenue amount verified through the Ministry's records on Petroleum Development Levy by Kshs. 327,678,754 as itemized:

	Balance as per Financial	**Balance as per Supporting**	
	Kshs	**Kshs**	**Kshs**
5% Rural Electrification			
PetoleumDevelopment			
ReceiptsfromUse ofGoods	1,000,000,0	1,000,000,000	-
Royalties on OilExploration	503,260,7	503,260,733	-
Royalties on Geothermal			
Total	**4,720,932,7**	**5,048,611,472**	**(327,678,754)**

Information available from management indicates that the difference of Kshs.327, 678,754 represents tax receipts excluded from the financial statements. This is attributed to an erroneous journal entry effected to adjust development bank opening balance but was instead posted into the petroleum development levy account. This has in effect reported an erroneous deficit of Kshs.137, 158,000instead of a surplus of Kshs.190, 521,000 in the statement of receipts and payments. Consequently, it was not possible to confirm the completeness and accuracy of the tax revenue receipts of Kshs.4, 720,932,718as reported in the financial statements.

Committee Observations and Findings

The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

181. Accumulation of Funds- Ministry Headquarters

Available records and information indicate that the Ministry of Energy and Petroleum headquarters construction fund operated by the National Oil Corporation of Kenya (NOCK) had an uncommitted balance of Kshs.589,821,694 as of 30 June, 2015 analyzed as follows;-

Particulars	**Amount (Kshs)**
Uncommitted fund balance brought forward from 2013/2014	612,474,703
Transfers into the fund during the year (2014/2015)	248,719,410
Total funds available for expenditure in2014/2015	861,194,113
Less commitments during the year (2014/2015)	
Proposed construction of access road(MOEP/ONT/08/2014-2015)	(23,347,119)
Proposed partitioning of MOEPHQs (MOEP/ONT/09/2014-2015)	(248,025,300)
Uncommitted balance as at30June 2015	589,821,694

However, confirmation receipt from NOCK indicates a balance of Kshs.516, 791,688 resulting in an unexplained difference of Kshs.73, 030,006. Management has not provided explanation for the discrepancy. There is also no plan for the utilization of the uncommitted balance and the accrued interest despite the advanced stage of completion of the headquarters building.

In the circumstances, it was not possible to confirm the accuracy and validity of the Ministry transfers to NOCK on account of headquarter building

Committee Observation and Findings

The committee marked the matter as unresolved.

Committee Recommendation

Accounting Officers must ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

182. Presentation of Personnel Emoluments

Included in the acquisition of assetsexpenditure of Kshs.31, 471,177,000 under purchase of vehicles figure of Kshs.33, 009,000 and as disclosed under note 18 to the financial statements is the cost of one motor vehicle with a cost of Kshs.7,000,000.Information and documents available indicate that the amount is a one off car allowance paid to the Cabinet Secretaries as per the National Treasury Circular. Consequently, the classification and presentation of the expenditure is inappropriate and not in conformance with International Public Sector Accounting Standards cash basis of accounting.

Committee Observations and Findings

The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

183. Compliance with Public Procurement and Disposals Act (Preference and Reservations)

Included in the Ministry's expenditure of Kshs.32,165,726,000 on assets acquisition and use of goods and services and as disclosed under notes 12 and 18 to the financial statements are own direct procurement of goods and services amounting to Kshs.2,030,781,828. The Ministry's quarterly reporting on 30% Public Procurement Preference and Reservations report indicates that it awarded tenders to the youth, women and persons with disabilities amounting to Kshs.59, 771,797 representing 2.9% of the procurement. This is against the set threshold of not less than 30% as per regulation 31 (1) of the Public Procurements and Disposals (Preferences and Reservations Regulations amended).

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

184. Non-Financial Assets

184.1 Completeness of the Fixed Asset Register

As noted in the audit report for the financial year 2013/2014, the non-current assets acquired in periods prior to 2012/2013 have been excluded in these financial statements. Annex 1 to the financial statements indicates a summary of the Ministry's fixed assets register as at 30 June, 2015 with historical costs totalling Kshs.99, 163,457,000. This covers assets acquired in the periods 2012/2013, 2013/2014 and 2014/2015 amounting to Kshs.35,855,782,000, Kshs.31,836,498,000 and Kshs.31,471,177,000 respectively. This situation is indicative of significant impairment of properties (assets)

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

184.2 Land without Title Deeds

As reported in prior year, the Ministry does not have title deeds for some of the parcels of land in Kericho, Kisii, Migori, Bukura, Uasin Gishu, Kitui, Wambugu and Mitunguu Energy Centres. Information available indicates that the process of acquiring titles for some of the land parcels has been ongoing for significantly long durations. It is therefore, not possible to verify the rightful ownership of these properties.

In light of the above paragraphs, it is not possible to give an opinion on the carrying values of the assets as reflected in the financial statements.

Committee Observation and Finding

The committee marked the matter as unresolved.

Committee Recommendation

Within three months of the adoption of this report, the Accounting Officer must secure and provide the Auditor General with titles to the land in Kericho, Kisii, Migori, Bukura,Uasin Gishu, Kitui, Wambugu and Mitunguu Energy Centres pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

Other Matter

185. Utilization of Resource Centre at Mitunguu in South Imenti Sub–County

During the financial year 2012/2013, the Ministry expended amounts totalling Kshs.44, 636,192 to put up Mitunguu Energy Resource Centre with the completion and hand over date of 25 July

2013. As in previous year's (2013/2014) audit report, the viability of the Centre due to non-optimal utilization was questioned. The management in its response to the Public Accounts Committee (PAC) sitting committed to fully operationalize the Centre and provided a business plan. However as at the time of the audit visit in October 2015, the facility continued to remain idle as the business plan had not been implemented. In light of the above paragraph, I am unable to confirm whether there is value for money on the expenditure over the project. My opinion is not qualified in respect of this matter.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

Within three months of the adoption of this report, the Accounting Officer must provide details of the occupation and utilization of Mitunguu Energy Resource Centre to the Auditor General pursuant to the provisions of section 68(2) (l) of the Public Finance Management Act, 2012.

Other Matter

186. Over Expenditure on use of Goods and Services

The Fund during the year under review, incurred expenditure totalling Kshs.219,967,601 on payments for use of goods and services against an approved budget of Kshs.80,000,000 thus resulting in a budget overrun of Kshs.139,967,601 or 175%. The Fund is therefore in contravention of the Public Financial Management Act 2012 Section 43 (2) (c) which provides for seeking supplementary approval for approved expenditure exceeding 10%.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must ensure that they obtain supplementary approval for approved expenditure exceeding 10% pursuant to the provisions of section 43(2) (c) of the Public Finance Management Act, 2012.

PETROLEUMDEVELOPMENT LEVY FUND

Basis for Qualified Opinion

187. Bank Balances

The reported bank balances as at 30 June 2015 of Kshs.337, 080,698 exclude receipts in bank of Kshs.6, 975,322 in regards to interest income and expenditure associated to withholding tax of Kshs.1, 046,298 relating to the year under review. This resulted in the understatement of bank balance and receipts income by Kshs.5, 929,024.

Consequently, the accuracy of the bank balance could not be confirmed.

Committee Observations and Findings

The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

188. Non-Compliance with the PDL Act Cap 426(C)

Contrary to the Petroleum Development Fund Act Cap 426C Section 4 which provides for payment of funds appropriated by parliament for the purpose to the Fund account, the National Treasury transferred Kshs.1, 458,700,000 to the Ministry of Energy and Petroleum's main account instead of the Petroleum Development Fund Account of which the Ministry expended the amount received to five institutions for budgetary support without the relevant supporting documentary evidence. Payments from the Fund ought to be for development of common facilities for distribution or testing of oil products and for matters relating to development of oil industry as the Minister may direct.

In the circumstances, the propriety of the expenditure of Kshs.1, 458,700,000 could not be confirmed.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must at all times ensure that they ensure that all expenditure made by the entity is lawful and authorized pursuant to the provisions of section 68(2)(a) of the Public Finance Management Act, 2012.

Other Matter

189. Use of Goods and Services

The financial statements of the Fund, and as disclosed in note 3 reflect expenditure of Kshs.26, 525,594, under use of goods and services of which there was no budgetary provision set for the expenditure. Consequently, the Fund is in breach of Section 196 of the Public Finance Management Act, 2012 on seeking approval prior to expending public funds. My opinion is not qualified in respect of this matter

Committee Observations and Findings

The Committee marked the matter as resolved.

PETROLEUMTRAINING LEVY FUND

Basis for Qualified Opinion

190. Excess Expenditure

The Ministry during the year under review, incurred expenditure totaling Kshs.669,970,270 on payments for use of goods and services, transfer to other government units and interest payments in comparison to an approved budget of Kshs.600,000,000 thus resulting in a budget overrun of Kshs.69,970,270 or 12%. The Ministry is therefore in contravention of the Public Financial Management Act 2012 Section 43 (2) (c) which provides for seeking supplementary approval for approved expenditure exceeding 10%.

Committee Observations and Findings

1. **The Committee was informed that there was an error and that the Ministry would reduce its expenditure to recover the over expenditure incurred in the previous year.**
2. **The Committee marked the matter as resolved.**

191. Unsupported Imprest Surrender

Included in the training expenses amount of Kshs.541, 097,804 and reported under use of goods and services is an imprest surrender of Kshs.7,800,000 on account of 'Powering Freedom' campaign during the launch of Olkaria IV 140 MW power plant. This expenditure has not been supported with relevant documentation. Consequently, it has not been possible to confirm the validity and accuracy of the Kshs.7, 800,000 training expenditure as reported

Committee Observations and Findings

I. **The Committee was informed that there was an error and that the Ministry would reduce its expenditure to recover the over expenditure incurred in the previously.**
II. **The Committee marked the matter as resolved.**

192. Completeness of Reported Revenue

The total reported receipts of Kshs.415,922,716 exclude unreceipted revenues totalling Kshs.74,103,211.45 earned during the year on account of contributions by oil companies and interest earned on deposits. This represents 18% of the reported receipts in the financial statements. Consequently, the reported revenue is understated to that extent. It was therefore not possible to confirm the accuracy of the reported deficit in the financial statements.

Committee Observations and Findings

1. **The Committee was informed that there was an error and that the Ministry would reduce its expenditure to recover the over expenditure incurred in the previous year.**
2. **The Committee marked the matter as resolved.**

12.0. MINISTRY OF INDUSTRIALISATION AND ENTERPRISE DEVELOPMENT FINANCIAL STATEMENTS FOR VOTE 117

Ms. Betty Maina the Accounting Officer, the Ministry of Industrialization and Enterprise Development accompanied by Mr. Momata Gichana; Senior Chief Finance Officer, Emily Sabala; Chief Accountant, Lawrence Selei; Economist, Everlyn Ongondi; SPFO, Abraham Wachira; PFO and David K. Obonyo; DCCD appeared before the 24th September, 2018, to adduce evidence on the audited Financial Statements of Vote 117 the Ministry of Industrialization and Enterprise Development for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

193. Irregular Procurement Practices

193.1 Procurement of Consultancy Services

The Ministerial Tender Committee (MTC) in its meeting held on 25 November 2014 Deliberated and awarded consultancy services for provision of technical support to the Business Environment Delivery Unit to M/s Strathmore Business School. The Ministry invited bidders but only one application was received. The tender committee went ahead and awarded the tender to the only responsive bidder which in effect resulted in use of direct procurement method.

From the subsequent payment documents, it was noted that the proforma invoice and invoice were issued on 6 November 2014 and 17 November 2014 respectively and received by the Ministry before Local Purchase Order dated 27 November 2014 was raised. Further, whereas the contract agreement had indicated that hole exercise was to be carried out in three months so that all stakeholders in the department may be involved, the service was done in less than a week and the consultant was paid Kshs.5,940,000 on 2 December 2014 contrary to the terms of the contract.

No supporting evidence was availed as to why the consultant commenced work before the contract was awarded and signed or reasons given for use of direct procurement method for work that could have been sourced from many consultants defeating the need for fair competition and fair pricing of the tender award.

Submission of the Accounting Officer

She submitted that the Ministry started the process of procurement for the Consultancy Services for provision of technical support to the Business Environment Delivery Unit, awarded to Strathmore Business School from 20th May 2014 (***See attached matrix – Annex 1***). The Strathmore Business School had entered into a collaborative arrangement with the IBM to deliver on the assignment. The Strathmore/IBM Consortium won the contract and was awarded on 26th November 2014.

In order to meet the strict timelines under the World Bank's annual cycle for the Doing Business assessment (that starts in mid-February to mid-October), there was an understanding therefore, that the process should begin as the Ministry and the Consortia finalized the procurement process.

She submitted that this activity was in the Ministry's Work Plan as well as a top priority on CS's Performance Contract.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that in order to meet the strict timelines under the World Bank's annual cycle for the Doing Business assessment (that starts in mid-February to mid-October), there was an understanding that the process should begin as the Ministry and the Consortia finalized the procurement process was insufficient insofar as she did not submit evidence requested by the Committee to explain the use of direct procurement method for work that could have been sourced from many consultants defeating the need for fair competition and fair pricing of the tender award contrary to s.74 of the Public Procurement and Disposal Act;**
2. **The Accounting officer did not submit the following documents requested by the Committee; Management letter to Treasury and response from Treasury on the same, Invitation letter to Strathmore university inviting them to undertake the research, Minutes of the Ministerial Tender Committee Copies of reports for the consultant;**
3. **The Accounting Officer during the year under review was Mr. Wilson Songa.**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should compel Mr. Wilson Songa to provide within three months after adoption of this report, an explanation for the failure to provide the explanation and documents to the Auditor General for review contrary to s.68(2)(l) of the Public Procurement and Disposal Act.**
2. **Where no satisfactory explanation is provided to the CS National Treasury and Auditor General within the stipulated time, Mr. Wilson Songa should be prosecuted for financial misconduct relating to failure to provide information under the officer's control pursuant to section 198(1)(k) of the Public Finance Management Act, 2012.**

193.2 Ease of Doing Business Improvement Programme – Phase II

It was further noted that the same consultant was awarded the contract for provision of consultancy services for ease of doing business improvement programme – Phase II at a cost of Kshs.5, 127,200. The tender was opened on 26 May 2015, and Local Purchase Order issued on 9 June 2015 while the invoice by the consultant was raised on 25 June 2015 after the two parties signed the contract on 18 June 2015. The contract stated in the special conditions that the duration of the contract should take four (4) months from the date of the contract as is guided by the work plan submitted by the consultant. The work was eventually completed in less than three weeks. This also casts doubt as to whether the service had already been mooted earlier and the tender committee was being used to rubber stamp or to ratify an already consummated transaction. Further, it is also doubtful to determine whether the relevant stakeholders were consulted on this transaction. The procurement procedure may not have been followed in procuring the above two services contrary to Section 68(3) of Public procurement and Disposal Act, 2005.

Consequently, the propriety and value for money from the transaction's worth Kshs.11, 067,200 could not be confirmed.

Submission of the Accounting Officer

She submitted that Phase II of the Consultancy Services for provision of technical support to the Business Environment Delivery Unit was also awarded to Strathmore Business School/IBM Consortia. This was done through an extension of Contract given the satisfactory delivery of milestones as spelt out in the Phase I and the long-term nature of the Assignment.

Although the purchase order was issued on 9th June 2015 which was before the contract was signed, it was done in good faith to facilitate the submission of the Reforms memorandum to the World Bank before June 30th 2015.The meeting noted that the Ministry had been facilitating the Consultants with letters of introduction, organizing workshops and holding joint meetings with the Stakeholders. This is therefore to confirm the Consultants met the relevant stakeholders, while accompanied by Ministry officials. During these visits, the Consultants reviewed the business processes and provided advisory services to the Process Owners (Ministries, Departments and Agencies(MDAS)) MDAs responsible for the 10 indicators targeted for reforms) for the business processes to be re-engineered, remodeled and the legal/policy reform required. The reforms in the various institutions have been documented and are available in the respective Government Agencies thus conforming the implementation of the task.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that Phase II of the Consultancy Services for provision of technical support to the Business Environment Delivery Unit was also awarded to Strathmore Business School/IBM Consortia and this was done through an extension of Contract given the satisfactory delivery of milestones as spelt out in the Phase I and the long-term nature of the Assignment was not sufficient to explain why the Local Purchase Order was issued before the signing of the Contract contrary to s.68(3) of Public procurement and Disposal Act, 2005.**
2. **The matter remains unresolved.**
3. **The Accounting Officer during the year under review was Mr. Wilson Songa.**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should compel Mr. Wilson Songa to provide within three months of adoption of this report, an explanation for the failure to provide the explanation and documents to the Auditor General for review contrary to s.68(2)(l) of the Public Procurement and Disposal Act.**
2. **Where no satisfactory explanation is not provided to the CS National Treasury and Auditor General within the stipulated time, Mr. Wilson Songa, be prosecuted for financial misconduct relating to making improper payment of public money belonging to the government pursuant to section 198(1)(o) of the Public Finance Management Act, 2012.**

193. Irregular Consultancy Service Contract

The Ministry procured consultancy services from a consultancy firm M/s Mckinsey and Company Inc Africa Proprietary Ltd for support of delivery of Kenya's Industrial Program.The contract was signed between the two parties on 18 November 2014 for a contract sum of Kshs.348, 000,000. Clause 2 of the contract agreement under subsection 2.1 and 2.2 indicates that the contract was to come into effect on the date the contract is 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. A review of the process indicated that the consultant raised an invoice of Kshs.69,827,963 on 11 November 2014 for Milestone 1(inception) even before the contract was signed between the two parties implying that the consultant may have started working before the contract was awarded and the signing of the contract was a mere ratification of the said contract. This contravened Section 68(3) of the Public Procurement and Disposal Act, 2005. Under the circumstance, the propriety or the expenditure could not be confirmed.

Submission by the Accounting Officer

She submitted that the Ethics and Anti-Corruption Commission reviewed this case and in their response letter Ref. No.EACC.6/24 Vol.II/ (5) dated 19th December, 2017 noted "Our investigations established that there were no procurement irregularities in the tendering process and award of the tender to McKinsey & Company Limited."

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the Ethics and Anti-Corruption Commission reviewed this case and in their response letter Ref. No.EACC.6/24 Vol.II/ (5) dated 19th December, 2017 stated "Our investigations established that there were no procurement irregularities in the tendering process and award of the tender to McKinsey & Company Limited, was misplaced insofar as it did not address the issue relating to the consultant raising an invoice of Kshs.69,827,963 on 11 November 2014 for Milestone 1(inception) even before the contract was signed**

between the two parties; the latter being a process ***post-award*** and contrary to the provisions of section 68(3) of Public procurement and Disposal Act, 2005.**

2. **The matter remains unresolved**
3. **The Accounting Officer during the year under review was Mr. Wilson Songa**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should compel Mr. Wilson Songa to provide within three months of adoption of this report, an explanation for the failure to provide the explanation and documents to the Auditor General for review contrary to s.68(2)(l) of the Public Procurement and Disposal Act.**
2. **Where no satisfactory explanation is provided to the CS National Treasury and Auditor General within the stipulated time, Ms Cicily Kariuki should be prosecuted for corrupt practice contrary to section 40 of the Public Procurement and Disposal Act, 2005.**

194. Irregular Reallocation of Development Grants to Recurrent Expenditure

Included in grants and transfers to other Government entities of Kshs.4,361,284,254 is an amount of Kshs.200,000,000 transferred to Medium and Small Enterprise Authority (MSEA) on 17 November 2014. The Ministry had earlier written to Treasury vide letter dated 22 August 2014 requesting for Authority to reallocate the amount within the development vote towards planned implementation of textile development through MSEA and the authority was granted on 2 September 2014. Available records however revealed that the Ministry in a letter to MSEA dated 28 November 2014 instructed the Authority to utilise the amount of Kshs.200 million meant for textile implementation programme by paying Kshs.50 million to various security firms which the Ministry had contracted in 2012 and the contracts extended up to December 2014 while constructing Constituency Industrial Development Centres (CIDCs).

Further scrutiny of records maintained at MSEA to support the security expenditure indicated that photocopies were used instead of original documents. This casts doubt on the validity of the security payments which had not been previously disclosed by the Ministry as part of the pending bills. It's also not clear why the same security payment was not paid by the Ministry that incurred the expenditure during the 2011/2012 and 2013/2014 financial years when the service is presumed to have been delivered. No evidence was availed to indicate whether approval of Treasury was sought and obtained to allow MSEA to divert Kshs.50 million meant for textile programme towards payment of the security services.

This resulted in diversion of development funds to recurrent expenditure through paying the said Kshs.50 million meant for textile implementation programme to payment of security without Treasury approval which contravenes the Public Financial Management Act, 2012 and Treasury circulars issued from time to time. In addition, the remaining balance of Kshs.150, 000,000 was largely applied to other recurrent expenditure not related to the envisaged textile programme.

In view of the foregoing, it has not been possible to confirm the legality, validity and propriety of the expenditure of Kshs.200, 000,000.

Submission of the Accounting Officer

She submitted that the Ministry through the letter dated 28th November, 2014 Ref MOI/ADM/31/1 **(Copy Attached)** instructed MSEA to Pay **Kshs. 50,000,000.00** Pending bills. This was because the bills were mandatory obligations related to security services provided to Constituency Industrial Development Centers (CIDCs) and Textile Development. CIDCs are the structures through which the MSEA textile program is implemented. The Ministry did not distinguish the payment of Security Services provided under MSEA as a recurrent expenditure as it was a component embedded in the MSEA program. It was prudent for MSEA to pay the Pending bills to avoid court litigations and possibility of accrued accumulated interest.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the the Ministry instructed MSEA to Pay Kshs. 50,000,000.00 Pending bills because it did not distinguish the payment of Security Services provided under MSEA as a recurrent expenditure as it was a component embedded in the MSEA program, did not explain why it allocated 25% of the Development vote contrary to section 43(2)(c) of PFMA; and**
2. **The Accounting Officer during the year under review was Mr. Wilson Songa.**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should compel Accounting Officer to provide within three months of adoption of this report, an explanation for the reallocation of kshs.50,000,000 contrary to s.43(2)(c) of the Public Finance Management Act, 2012.**
2. **Where no satisfactory explanation is not provided to the CS National Treasury and Auditor General within the stipulated time, the Accounting Officer 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.**

195. Loss of Cash

During the previous year's audit, it was reported that the Ministry had lost Kshs.6, 403,200 apparently paid wrongly to a merchant during the 2011/2012 financial year. A review of the position indicated that an amount of Kshs.3, 500,000 has since been recovered leaving a balance of Kshs.2, 903,200 outstanding plus interest. The Ministry stands to lose public funds due to negligence or lack of willingness to follow the issue to its logical conclusion. Consequently, the recovery of the Kshs.2, 903,200 remains doubtful.

Submission of the Accounting Officer

She admitted that the Ministry paid **Kshs.6, 403,200.00, wrongly** to M/s Aquachem Technologies Limited during the 2011/2012 financial year. The Ministry filed a case in the Court through the Attorney General, Ref: Civil Suit number 520 of 2013**.**

During the time of the Audit an amount of Kshs**. 3,500,000.00,** had been recovered with a balance of **Kshs. 2,903,200.00,** which has since been recovered as shown below:

RTGS SERIAL NUMBER	**DATE**	**AMOUNT (Kshs.)**
421651	10/08/2015	500,000
384000	9/10/2015	500,000
458591	10/12/2015	2,500,000
576690	30/09/2016	900,000
576695	05/10/2016	1,000,000
576700	10/10/2016	650,403
596284	28/11/2016	352,791
TOTAL-Kshs		**6,403,194.00**

Committee Observation and Finding

The explanation by the Accounting Officer that the Ministry filed a case in the Court through the Attorney General, Ref: Civil Suit number 520 of 2013 for recovery of an amount of Kshs. 2,903,200.00 outstanding of a total of Kshs.6, 403,200.00 was convincing, However, no evidence in the form of documents was tabled before the Committee to demonstrate that the court case was underway.

Committee Recommendation

> **The Accounting Officer should ensure that the resultant difference of Kshs. 2,903,200.00 which was paid erroneously to M/s Aquachem Technologies Limited during the 2011/2012 financial year is fully recovered within three months of the adoption of this report.**

196. Loss of CIDC Equipment and Tools at KIRDI

During the 2009/2010, the Government established the Economic Stimulus Programme (ESP) with the aim of overcoming the challenges occasioned by the global financial crises of 2008/2009 through creating opportunities for Kenyans for a better future. The then Ministry of Industrialization (now Ministry of Industrialization and Enterprise Development) was one of the Ministries selected to participate in the Constituency Industrial Development Centres (CIDC) component of the Economic Stimulus Programme. During the 2010/2011 financial year, the Ministry of Industrialization and Enterprise Development undertook to construct and equip CIDCs in all the then 210 constituencies under the old constitutional dispensation.

As the construction progressed, the Ministry decided to procure tools and equipment such asthemachines, compressors, concrete mixtures, vibrators, hand drills among others valued at Kshs.220, 691,487 for all the 210 CIDCs even before construction was complete. As a result, the items were warehoused at the Kenya Industrial Research and Development Institute (KIRDI) to await distribution upon completion of the CIDCs. To date 64 CIDCs are completed with electricity connected but 89 are still at different levels of completion while some 22 constituencies did not provide land for the construction. It has not been possible to confirm why the Ministry hastened to procure all the equipment and tools when construction was far from completion.

In addition, during the year under review, it was learnt that some equipment had been stolen, and an audit inspection at KIRDI premises revealed that there has been constant pilferage of the equipment and tools and the store is almost empty with less valuable items such as fire extinguishers and cannibalized machinery. Whereas several items had been issued to some of the completed CIDCs, a comparison of the original stock take with the current situation revealed that goods of an approximate value of over Kshs.60, 000,000 may have been misappropriated. This is despite the fact that the store is under 24 hours' surveillance and is inside a guarded and fenced compound of the Institute an indication that, the management may have been culpable of the loss due to negligence.

Consequently, it has not been possible to confirm that the Ministry got value for money for the procured tools worth Kshs.220, 691,487.

Submission by the Accounting Officer

She reported that the matter is pending in Court. The Applicant **Ms. Eunice Miima,** was the Director of Administration in this Ministry until she retired on 30thJune, 2017.

The Criminal Proceedings against her arose following a recommendation by the Director of Public Prosecution (DPP), that the Applicant alongside with Four [4] other Persons be charged for loss of Industrial Equipment through theft and pilferage belonging to this Ministry.

She was subsequently charged on 5thOctober, 2016 being Criminal Case No. 1523/2016 for theft of Ministry property valued at **Kshs. 63,906,392.00.** She was released on a Cash bail of **Kshs. 200,000.00.** She later moved to Court in **Nairobi H.C.J.R Misc. Application. No. 521 of 2016 M/s Eunice Khalawali Miima vs.** Director of Public Prosecution, Chief Magistrate Milimani Law Courts, Criminal Division and Cabinet Secretary Ministry of Industry, Trade and Cooperatives seeking orders that the 3rd respondent, the Cabinet Secretary herein for Ministry of Industry, Trade and Cooperatives be restrained from taking adverse action against her pursuant to the subject criminal proceedings until further orders. Further, this application sought orders to quash the decision of the DPP to prosecute her and orders to prohibit the Cabinet Secretary, Ministry of Industry, Trade and Cooperatives from interdicting, suspending or sacking the Applicant.

The State Counsel handling the matter learnt that the judgment had been read on 11thOctober, 2017 in the absence of the parties in April, 2018. The Court dismissed her application to quash the criminal proceedings and allowed the DPP to proceed and prosecute the criminal matter. The matter came before court on 2ndMay, 2018. The Ministry has indeed taken meaningful efforts to hold those culpable for occasioning the loss as it defended application which led to it being dismissed.

Committee Observations and Findings

1. **The explanation of the Accounting Officer that Ms Eunice Miima, was the Director of Administration in this Ministry until she retired on 30thJune, 2017; She was charged on 5th October, 2016 being Criminal Case No. 1523/2016 for theft of Ministry property valued at Kshs. 63,906,392.00 and was released on a Cash bail of Kshs. 200,000.00 was compelling.**
2. **The matter remains resolved.**

Committee Recommendation

There is an active criminal proceeding and the Committees pronunciation of the matter might prejudice its fair determination.

197. Budgetary Control

197.1 Comparison of Budgeted versus Actual

1. A comparison of the recurrent & development budget versus the actuals revealed the under-utilization by Kshs.3, 419,942,506 representing about 38 percent under absorption.

Paragraph 197.1 and paragraph 485.1 were combined

485.1 Reconciled Summary Statements of Comparison between the Appropriation Accounts

Review of the summary statement of appropriation for the period ended 30 June 2016 revealed several instances where performance recorded in the respective appropriation accounts did not agree with the summary statements of appropriation account, and eventually, with the statement of receipts and payments. In addition, material deviations between the budget and actual performance have also not been explained.

In absence of reconciliation of these records, the accuracy of the respective balances could not be ascertained and the financial statements may not be fairly stated.

Overall budgetary absorption is 8%. This has been provided for the budget absorption anomalies which have a negative impact on service delivery and achievement of the Ministry's mandate.

June 2016, revealed several instances where performance recorded in the respective Appropriation Accounts did not agree with the summary statements of appropriation Account, and eventually, with the statement of receipts and payments.

A fresh reconciliation of 2015/2016 Accounts were done afterwards and hitherto, the correct position reflects that both Recurrent and Development Appropriation Account are in agreement.

We have attached;

· Recurrent Appropriation Account

· Development Appropriation Account

· Combined Appropriation Account

She submitted that absorption of Government funding [G.O.K. funding] was 100%.

The 8% absorption level of budget in the financial year 2015/2016 relates to low absorption of Donor Funds, specifically in respect to the World Bank Loan namely, the Kenya Petroleum Technical Assistance Project (KEPTAP).

The reason for low absorption of this Donor funds in the budget is a result of the following reasons.

At the time of inception of this Project, there was lack of Capacity as Staff to man the project was not sufficient. There wasn't a Project Coordinator and necessary Staff to steer the project daily operations. The Ministry later hired the necessary Project Staff and was brought on board in January 2017.

The Budget was initially provided by the National Treasury as a one Line item. This resulted to difficulties in utilization of the funds. This was however rectified in the subsequent 2016/2017 financial year by itemizing the budget for ease utilization.

Committee Observations and Findings

1. **The explanation by the Accounting Officer for the reason for low absorption of in respect to the World Bank Loan namely, the Kenya Petroleum Technical Assistance Project (KEPTAP) there was lack of capacity as staff to man the project was not sufficient and that the Budget was initially provided by the National Treasury as a one Line item which resulted to difficulties in utilization of the funds was not satisfying insofar as it was the duty of the Accounting Officer to ensure that resources allocated to his or her entity are utilised effectively and efficiently. This is because the implementation of a budget requires an annual work plan, a procurement plan and a feasibility studies.**
2. **The matter stands resolved.**

197.2 Grants and Budget Execution

The supplementary budget of grants and transfers to agencies exceeded 10 percent yet there is no evidence that there was unforeseen and unavoidable circumstance where no budget provision was made. A tabulation of the over expenditures are as follows:

Recurrent and Development Expenditure				
	Approved Printed Estimates KShs.'000'	**Supplementary Estimates KShs.'000'**	**Cumulative Expenditure KShs.'000'**	
Grants & others transfer to agencies	3,365,956,219	2,668,800,000	6,034,756,219	79 percent

The supplementary estimates amounting to Kshs. 2,668,800,000 did not comply with provisions of Article 223(5) of the Constitution of Kenya Sections 21, 43(2)(c) and 44 of the PFM Act, 2012 and Section 40(9) of PFM Regulations, 2015 were also violated. Consequently, the expenditure was contrary to the fiscal responsibility principles and financial objectives of the economy.

Submissions by Accounting Officer

She admitted that the summary Statement of Appropriation for the period ended 30 June 2016, revealed several instances where performance recorded in the respective Appropriation Accounts did not agree with the summary statements of appropriation Account, and eventually, with the statement of receipts and payments.

A fresh reconciliation of 2015/2016 Accounts were done afterwards and hitherto, the correct position reflects that both Recurrent and Development Appropriation Account are in agreement.

We have attached;

· Recurrent Appropriation Account

· Development Appropriation Account

· Combined Appropriation Account

She submitted that absorption of Government funding [G.O.K. funding] was 100%.

The 8% absorption level of budget in the financial year 2015/2016 relates to low absorption of Donor Funds, specifically in respect to the World Bank Loan namely, the Kenya Petroleum Technical Assistance Project (KEPTAP).

The reason for low absorption of this Donor funds in the budget is a result of the following reasons.

· At the time of inception of this Project, there was lack of Capacity as Staff to man the project was not sufficient. There wasn't a Project Coordinator and necessary Staff to steer the project daily operations. The Ministry later hired the necessary Project Staff and was brought on board in January 2017.

· The Budget was initially provided by the National Treasury as a one Line item. This resulted to difficulties in utilization of the funds. This was however rectified in the subsequent 2016/2017 financial year by itemizing the budget for ease utilization.

Committee Observations and Findings

1. **The explanation by the Accounting Officer for the reason for low absorption of in respect to the World Bank Loan namely, the Kenya Petroleum Technical Assistance Project (KEPTAP) there was lack of capacity as staff to man the project was not sufficient and that the Budget was initially provided by the National Treasury as a one Line item which resulted to difficulties in utilization of the funds was not satisfying insofar as it was the duty of the Accounting Officer to ensure that resources allocated to his or her entity are utilised effectively and efficiently. This is**

because the implementation of a budget requires an annual work plan, a procurement plan and a feasibility studies.

2. **The matter stands resolved.**

Committee Recommendations

Accounting Officers should ensure that they prepare estimates of expenditure and revenue of the entity in conformity with the strategic plan in accordance with the provisions of section 68(2) of the Public Finance Management Act, 2012.

197.3 Textile and Leather Working Machinery and Equipment

During the year ended 30 June 2015, the Ministry procured textile and leather workshop machinery and equipment such as generators, folding machines, industrial training machines, sewing machines, overlock machines, ash ford tapestry machines among others for Kenya Industrial Training Institute, Nakuru worth Kshs.214,899,000.

Although the inspection and acceptance committee certificate confirmed the goods to have been of the right quantity and specifications, the machines and equipment have not been installed and used as planned owing to lack of power installation and alleged delayed exchequer releases.

In the circumstances, it has not been possible to confirm that value for money has been obtained for the expenditure of Kshs.214, 899.000.00.

Submission by the Accounting Officer

She admitted that the Ministry procured textile and leather workshop machinery and equipment for Kenya Industrial Training Institute Nakuru worth **Kshs. 214,899,000.**

She submitted that the Ministry will hasten the process of acquiring the missing components in some of the machines to enable smooth Commissioning of the Textile and leather Machines as well as ensure that the Machine operators are properly trained on the use of the machines.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the Ministry would fast track the process of acquiring the missing components in some of the machines to enable smooth Commissioning of the textile and leather machines as well as ensure that the Machine Operators are properly trained on the use of the machines was not satisfying insofar as the inaction does not comply with the responsibility of an accounting officer to ensure effective, efficient and economical use of public resources contrary to section 68(1) of the Public Finance Management Act, 2012.**
2. **The matter remains unresolved.**
3. **The Accounting Officer during the year under review was Mr. Wilson Songa.**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should compel Mr. Wilson Songa to provide an explanation for incurring wasteful expenditure on behalf of the government 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, Mr. Wilson Songa 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.**

198. Pending Bills

The Ministry's financial statements disclose pending bills of Kshs.295, 233, 519 as at 30 June 2015. Included in these bills is Kshs.29,147,682 relating to legal fees payable to the Attorney-General but for which no supporting documentation was made available for audit verification. Further, the carrying forward of the pending bills distorts the subsequent year's budget.

In the circumstances, it has not been possible to confirm the propriety of this expenditure.

Submissions of the Accounting Officer

She submitted that the Pending Bills of **Kshs. 29,147,652.00,** owed to Messrs Iseme Kamau and Muema Advocates has since been transferred to East African Portland Cement Company Ltd vide letter Ref:MOI/CONF/3/12 VOL.9(75) dated 7th June 2017.

She further submitted that the Pending bills at the Kenya Industrial Training Institute [KITI] have subsequently been consolidated in totality with the State department pending bills for onward transmission to the Pending Bills committee of the National Treasury in line with the prevailing Legislation.

The meeting heard that the inclusions of an amount of **Kshs. 4,078,733.00** were personal claims owed to Ministry's Staff. They were eventually cleared.

All amounts owed to MDA's were disbursed as shown in the disbursement schedule as shown in Paragraph 198 above.

Status

Having forwarded the pending bill of Kshs 29,147,652.00 to East African Portland Cement Company Ltd, the Ministry presumed that the same has been acknowledged and recognized in their Financial Statements.

Committee Observations and Findings

1. **The explanation by the th Accounting Officer that The Kshs. 29,147,652.00 owed to Messrs Iseme Kamau and Muema Advocates has since been transferred to East African Portland Cement Company Ltd vide letter Ref: MOI/CONF/3/12 VOL.9(75) dated 7th June 2017 was not convincing insofar as the Accounting Officer could not**

explain the circumstances under which the Department was required to pay bills originating for services rendered to East African Portland Cement Company Ltd (a private entity) in a manner that is neither lawful and authorized contrary to section 68(2)(a) of the Public Finance Management Act, 2012.

2. **The process of directing the Accounting Officer to pay the bill by the Attorney General was irregular.**
3. **The matter remains unresolved.**
4. **The Accounting Officer during the year under review was Mr. Wilson Songa.**
5. **The Attorney General during the year under review was Prof. Githu Muigai.**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should compel Mr. Wilson Songa and Prof. Githu Muigai to provide an explanation for incurring 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, Mr. Wilson Songa and Prof. Githu Muigai 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 .**

13.0. MINISTRY OF MINING

FINANCIAL STATEMENTS FOR VOTEVOTE 119

Mr. John O. Omenge, the Accounting Officer the Ministry of Mining accompanied by Bernard K. Orina; Acting Director of Human Resource MGT, Thomas N. Ndola; Ag. Director Geological Surveys, Pauline Luganje; Chief Finance Officer, Peter Messoh; Finance Office, Ngugi Collins; CSIM, Apollo Muchilwa; Acting SADICT, Ben Abenga; Senior Accountant, Charles Nyaga; H.A.U-A.A.G, Martin Nyakinye; Chief Supt.Geologist appeared before the 19th October, 2018, to adduce evidence on the audited Financial Statements of Vote 119 the Ministry of Mining for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

200. Un-authorized Expenditure on Surplus Appropriation in Aid (A.I.A.)

The statement of receipts and payments reflects other receipts totaling Kshs.1, 319,889,112 which under note 3 to the financial statements under A.I.A reflects a balance of Kshs.34, 916,416.45 against an approved budget of Kshs.14, 000,000 resulting in an excess/surplus in A.I.A of Kshs.20, 916,416.45 which procedurally, the Ministry of Mining should have surrendered to the exchequer account. However as at 30 June 2015, the surplus AIA had been expended and remained unsurrendered.

Submission by the Accounting Officer

The Ministry was to receive Kshs.1, 903,711,140.00 as Exchequer from the National Treasury but received Kshs.1, 555,585,000 leaving an outstanding balance of Kshs. 348,126,140.00 as Exchequer under issue. It was expected and budgeted at Draft Estimates that Kshs.14, 000,000.00 will be raised from Laboratory fees, Inspection fees, Explosive licensing, sale of publications and Canteen charges but Kshs.34, 916,416.00 was raised from the same.

The excess A.I.A amounting to Kshs.20, 916,416.00 was expended to meet the resultant expenditures for the period ending 30th June 2015 to meet the Exchequer deficit of Kshs.348, 126,140.00 and hence the A.I.A was not surrendered to the Exchequer account. This was done in anticipation that the Ministry will receive its total Exchequer releases and the same was discussed at the Estimates Working Group (EWG) at the Treasury during the Supplementary Estimates of the Financial Year 2014/15 deliberations.

Consequently, the State Department for mining has taken the initiative to regularize with the National Treasury, any projected increase of the Appropriation in Aid (AIA)

Committee Observations and Findings

1. **The Ministry used the excess A.I.A amounting to Kshs. 20, 916,416.00 on the expenditures for the financial period that ended on 30th June 2015 to meet the Exchequer deficit of Kshs. 348, 126,140.00.**
2. **The Ministry budgeted to raise in the FY 2014/15 Kshs. 14,000,000.00 from Laboratory fees, Inspection fees, explosive licensing, sale of publications and Canteen charges but managed to use Kshs. 34,916,416.00 resulting into excess A.I.A amounting to Kshs.20, 916,416.00 which was expended to meet the resultant expenditures for the period ending 30th June 2015**

Committee Recommendation

Accounting Officers should ensure that any excess A.I.A beyond the limit approved by Parliament for use by the Ministry is surrendered to the National Treasury in accordance with PRM (National Government) Regulation 2015;

201. Revenue

201.1 Royalties Received from Carbacid Company Ltd – Carbon Dioxide

Other Receipts' balance of Kshs.1, 319,889,112 includes royalties of Kshs.1, 008,093 received from Carbacid Co. Ltd on carbon dioxide. Clause 10 of the signed mining license requires Carbacid Co. Ltd to file progress reports and sales return which form the basis for royalty payments. Carbacid Co. Ltd has to date not complied with the provision. In the circumstance, it has not been possible to confirm the accuracy and completeness of the royalties amount received from Carbacid Company Ltd.

Submissions by the Accounting Officer

He submitted that the Ministry has not been receiving returns on production and sales from Carbacid Company Ltd. Through a letter, Ref: L/57/I/168 of 11th May 2017, the Company was directed to submit the returns and pay up the corresponding arrears in royalty. To verify the completeness of the returns a task force was formed and members appointed, vide letter Ref: MOM/SP.AUD.AUD/09/ (32) dated 17thApril, 2018, with the objective of ascertaining the remittances.

Committee Observations and Findings

1. **Clause 10 of the signed mining license between the Ministry and Carbacid Company Ltd required Carbacid Co. Ltd to file progress reports and sales return which forms the basis for royalty payments. Carbacid Co. Ltd has not complied with the provision to date;**
2. **The Ministry has not been receiving returns on production and sales of carbon dioxide from Carbacid Company Ltd. Through a letter, Ref: L/57/I/168 of 11thMay**

2017, the Company was directed to submit the returns and pay up the corresponding arrears in royalty; and

3. **According to the Accounting Officer, a task force was formed and members appointed, to verify the completeness of the returns vide letter Ref: MOM/SP.AUD.AUD/09/ (32) dated 17th April, 2018, with the objective of ascertaining the remittances of royalties on carbon dioxide to the government.**

Committee Recommendations

1. **The Accounting Officer should ensure that Clause 10 of the signed mining license between the Ministry and Carbacid Company Ltd is adhered to, failure to which the Cabinet Secretary responsible for Mining should review the mining license with a view to cancel it;**
2. **The Accounting Officer should ensure that Carbacid Co. Ltd files periodic progress reports and sales returns which form the basis for royalty payments. These reports and sales returns should be submitted to the Auditor-General for review;**
3. **The Accounting Officer should follow up the letter Ref: L/57/I/168 of 11th May 2017 addressed to the Company directing it to submit the returns and pay up the corresponding arrears in royalty; and**
4. **The Accounting Officer should ensure that the taskforce which was formed vide letter Ref: MOM/SP.AUD.AUD/09/ (32) dated 17thApril, 2018, with the objective of ascertaining the remittances of royalties on carbon dioxide to the government finalize its work and submit it report; and**

201.2 Royalties received from Base Titanium Limited

Titanium Included in the Other Receipts are royalties received from Base Titanium Limited of Kshs.260, 706,550 on account of titanium exports. These receipts are based on self-declared export quantities for which the Commissioner of Mines and Geology has issued export permits. There has been no evidence of subsequent verification of the actual exports vis-à-vis declared quantities to validate their accuracy. It is therefore not possible to confirm the completeness and validity of royalties' income as reported under Base Titanium Limited.

Submissions of the Accounting Officer

The Ministry has been receiving self-declared remittances of Royalties from the Company, however to verify these declarations the Ministry invoked Annex 'D' of the Special Mining Lease No. 23 which states that "the Commissioner may at his/her discretion and at the cost of the Lessee order that pricing of the products sold be verified by an independent consultant familiar with the Mineral Sands Industry and agreeable to both parties. Any information provided by either party during the procedure is confidential" and hence caused an independent audit to be undertaken to verify the declarations on quantities, prices and Royalties payments

The selected auditors, Price Water Coopers (PWC) Kenya have since returned an audit report stating that there are no material discrepancies between the declarations and findings of the audit.

Committee Observations and Findings

1. **The Ministry received Titanium royalties of Ksh. Kshs.260, 706,550 from Base Titanium Limited on account of titanium exports. These receipts were based on self-declared export quantities for which the Commissioner of Mines and Geology had issued export permits;**
2. **The Ministry invoked Annex 'D' of the Special Mining Lease No. 23 to appoint PriceWaterhouseCoopers (PWC) Kenya to audit the declared exports. Even-though PWC Kenya returned an audit report stating that there are no material discrepancies between the self-declarations and findings of the audit, the Accounting Officer should not rely on self-declarations as basis for payment of royalties;**

Committee Recommendation

The Cabinet Secretary should within three (3) months after adoption of this report embark on development of policy guidelines on payments of royalties. The guidelines should address sales reporting and royalty remittances on various minerals, auditing of sales to ensure mining companies pay the royalties that is due to the government.

202. Uncollected Revenues on Dealer Licenses

The Ministry has not put in place a functional system for tracking dealers' license validity and supervision of their operations. Consequently, there has been no dealer premise visits conducted in the year under review to verify validity and compliance with the existing license terms. Information available indicates that revenues totaling Kshs.820, 000 in the form of dealer license remained uncollected and undisclosed in the financial statements as of 30 June 2015. In the circumstances, it was not possible to confirm the accuracy and completeness of revenue figure of Kshs.1, 319,889,112 disclosed under note (3) to the financial statement.

Submissions by the Accounting Officer

The Dealer Licences are issued per calendar year and charged Kshs.20, 000.00 Annual Fee. However, the list of dealers' licenses issued in FY 2014/15 includes Licences whose fees were paid in FY 2013/14. Processing of the Applications for Dealers License amongst other Licences and Permits were done through the Ministerial Licensing Advisory Committee (MLAC), chaired by the Cabinet Secretary and used to meet periodically. The lag between payment of the fees and issuance of Dealer's Licence across Financial years could contribute to mismatch between the fees collected against Licences issued.

Committee Observations and Findings

1. **There is no functional system for tracking dealers' license validity and supervision of their operations. In the year under review there were no dealer premise visits conducted to verify validity and compliance with the existing license terms;**
2. **Revenues totaling Kshs. 820,000 in the form of dealer license were not collected and not disclosed in the financial statements in the year ended 30 June 2015. Explanation by the Accounting Officer that the lag between payment of the fees and issuance of Dealer's Licence across financial years could contribute to mismatch between the fees collected against licences issued was not satisfactory**

Committee Recommendations

1. **The Commissioner of Mines and Geology should put in place a functional and efficient system for tracking dealers validity and supervision including operations and site visits to confirm that dealers adhere to the licence conditions; and**
2. **The Accounting Officer should ensure that dealers pay licence fees promptly. There should be no lag between payment of the fees and issuance of Dealer's Licence since licence should only be issued on payment of the requisite fees.**

203. Irregular Export Permits

Information available indicates that export permits with a value of US$ 18,619,645 (approximately Kshs.1.9 billion) were issued during the year by an unauthorized officer whose employment contract expired on 19 April 2014. This is contrary to the Mining Act which stipulates that, export permits are to be signed off by the Commissioner of Mines or an authorized officer whose authority has been delegated in writing. Consequently, the validity of the revenue collections on the export permits issued by the officer could be challenged.

Submissions of the Accounting Officer

He submitted that the office of the Cabinet Secretary in the Ministry of Mining in 2014 had put in place administrative measures to bring transparency and accountability in processing of the Export Permits where vetting of the Applications to Export Minerals was separated from issuance of the Export permits. To operationalize this process, the Mineral Audit Unit was formed with among other functions to audit Applications for Export Permit.

He further submitted that the above officer referred as unauthorized was the Head of the Unit and therefore, as a matter of procedure, had to vet the applications and forward them to the Commissioner of Mines with advisory notes. The authority to issue the permits was done by the Commissioner of Mines.

He confirmed to the committee that records in his office indicated that the said officer was Mr. Said Athman a substantively appointed Mining Secretary with the Personal Number 2008080402 in Job Group 'T'. He was transferred from the Ministry of Devolution and Planning on 25th September, 2013.

Committee Observations and Findings

1. **Mr. Said Athman, the then Mining Secretary was in charge of vetting and issuing application permits for mining export permits where export permits with a value of US$ 18,619,645 (approximately Ksh.1.9 billion) were issued during the year; and**
2. **The power exercised by Mr. Said Athman to vet and issue mining export licences was contrary to the provision of Mining Act which stipulates that export permits are to be signed off by the Commissioner of Mines or an authorized officer whose authority has been delegated in writing.**

Committee Recommendation

The Cabinet Secretary for Mining should ensure at all times that any person who exercises the powers to vet and issue licences for Mining exports is duly authorised in writing by the commissioner for mines in accordance with the Mining Act;

204. Pending Bills

As disclosed under Annex 1 in these financial statements, the Ministry has pending bills totaling Kshs.9,060,804 as at 30 June 2015 relating to 2014/2015 financial year that have been carried forward to 2015/2016 financial year. The reported operating expenses have been understated by this amount.

Submissions of the Accounting Officer

He submitted that the Ministry had pending bills amounting to Kshs.9, 060,804.00 for the Supply of Goods and Services in the Recurrent Vote. The payments were not made due to liquidity challenges.

He reported that out of the Recurrent Budget of Kshs.753, 711,140.00 only Kshs.665, 765,000.00 was funded from the Exchequer leaving a balance of Kshs.87, 947,140.00 as Exchequer under issues. It is noted that the Bank Balance of Recurrent Cash Book as at 30th June 2015 was Kshs.178, 116.00 which was not adequate to pay the Pending Bills amounting to Kshs.9, 060,804.00

The bills have since been verified and validated by the Internal Auditor; copy forwarded to the National Treasury and Kshs.7, 991,000.00 has since been paid.

Committee Observations and Findings

1. **The Ministry had pending bills amounting to Kshs. 9,060,804.00 in the FY 2014/2015 for the supply of goods and services in the recurrent vote which were occasioned by liquidity challenges; and**

2. **The pending bills have since been verified and validated by the Internal Auditor and Kshs. 7,991,000.00 has since been paid.**

Committee Recommendation

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

205. Lack of Fixed Assets Register

The Ministry does not maintain a fixed asset register for all its fixed assets. It is therefore not possible to verify ownership, existence and valuation of all its assets.

Submission of Accounting Officer

He submitted that the Asset Registers are available for verification.

Committee Observations and Findings

1. **The Accounting Officer failed to maintain a fixed asset register for all fixed assets of the Ministry contrary to the provisions of Regulation 143(1) of the PFM (National Government) Regulations 2015 which requires that all Accounting Officers should maintain a register of assets under his or her control or possession; and**
2. **The submission by the Accounting Officer that Asset Registers are available for verification was not satisfactory. If a complete asset register was available as was purported by the Accounting Officer, it should have been availed to the Auditor-General at the time of audit.**

Committee Recommendation

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.

206. Appointment as Receiver/Collector of Revenue

As at the time of concluding the audit, the Ministry of Mining was yet to be appointed receiver / collector of revenue and has continued during the year under review to collect revenue contrary to the Public Financial Management Act, 2012, section 75(1). The accounting officer has subsequently, vide letter dated 16 November 2015 written to Director General Accounting Services for appointment as receiver/ collector of revenue.

Submissions of the Accounting Officer

He submitted that the Principal Secretary has been subsequently appointed Receiver/Collector vide letter Ref.: AG.1/021 Vol.II/138 dated 27th July, 2016.

Committee Observations and Findings

1. **The Cabinet Secretary for National Treasury failed to designate in writing a receiver of revenue for the Ministry contrary to the provisions of Article 209(1), (2) and (4) of the Constitution of Kenya 2010; and**
2. **The delay in designating a receiver of revenue who should have been responsible for the collection and accounting for revenue during the period was contrary to the provisions of Articles 206(1) and 209(1), (2) and (4) of the Constitution of Kenya 2010.**

Committee Recommendation

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;

207. Irregular Meetings of the Audit Committee

Treasury circular No.16 dated 4 October 2005 requires that the audit committee meets at least four (4) times in a year. During the year under review, the committee met only once on 28 August 2014, hence rendering limited oversight and governance over ministerial activities. The financial statements were also not reviewed and approved by the committee before being submitted for audit as stipulated in the circular.

Submissions of the Accounting Officer

He submitted that the Ministerial Audit Committee met once and that the financial statement were not reviewed and approved by the Audit Committee as required. The reason of non-compliance was that the Ministry at that period was being formed and the committee lacked quorum due to transfer of officers

He reported that the Audit Committee in the subsequent years was active, however due to the organization of the Government through Executive Order No.1 of 2018 anew Ministry of Petroleum and Mining was created. The Ministry has initiated the process of forming a Ministerial Audit Committee.

Committee Observations and Findings

The Ministerial Audit Committee met only once during the financial year. This was contrary to the provisions of treasury circular No.16 dated 4 October 2005 which required that the audit committee meets at least four (4) times in a year;

Committee Recommendation

The Cabinet Secretary should finalize the formation of Ministerial Audit Committee in line with the Audit Committee Guidelines for National Government issued by the Cabinet Secretary for National treasury vide a Kenya Gazette notice dated 16th April 2016.

208. Delays in Commissioning of Ministry Laboratory

The Ministry during the financial year completed the construction of its new laboratory complex at Industrial Area at a cost of Kshs.102, 848,436.20. However, as at the completion of this audit, the laboratory had not been put into use and has continued to remain idle. My opinion is not qualified in respect to the above matters.

Submission of the Accounting Officer

He submitted that the newly constructed laboratory block is intended to house a Modern Mineral Complex Laboratory equipped with Modern Analytical Equipment which the Ministry is procuring. Already some equipment have been procured and deployed in the laboratory.

He reported that equipping the laboratory is an ongoing and long term project and will continue until the laboratory is appropriately equipped and accredited internationally. Delays in procurement have been occasioned by lengthy and complex procurement process.

Committee Observations and Findings

1. **The Ministry has completed the construction of a mining laboratory complex at Industrial Area at a cost of Kshs. 102,848,436.20; and**
2. **There is a delay in fully equipping the laboratory and the process is still ongoing. The equipping has been occasioned by lengthy and complex procurement process.**

Committee Recommendations

1. **The Cabinet Secretary responsible for mining should prioritize the equipping of the laboratory to ensure it achieves its intended purpose.**

14.0. OFFICE OF THE ATTORNEY-GENERAL AND DEPARTMENT OF JUSTICE FINANCIAL STATEMENTS FOR VOTE 120

Mr. Njee Muturi, CBS, the Accounting Officer, Office of the Attorney-General and Department of Justice appeared before the Committee on 6th April 2017 accompanied by Ms. Bernice Gachegu; Registrar General, Mr. F.G.K. Masha; Ag. Director, Governance; Justice, Law & Order Sector, Ms. Eunice Sawe; Public Trustee, Ms. Leah Kimemia; Principal Accountant, Mr. Jacob Munge; Chief Finance Officer, Mr. Diaz Muasya; Chief Accountant, Mr. T.N. Miiri; Senior Accountant, Mr. Richard Miginjo; Senior Finance Officer, Mr. J.M. Kieni; Supply Chain Manager, Mr. Evans Ombiro; Accounts Assistantto adduce evidence on the audited Financial Statements of Vote 120 Office of the Attorney General and Department of Justice for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Baisis for Qualified Opinion

209. Accuracy and Completeness of the Financial Statements

The figures reported in the financial statements as at 30 June 2015 do not agree with the

Figures in IFMIS as tabulated below: -

Variances between IFMIS and Financial Statements Balances

Details	Financial Statements (Kshs)	IFMIS Report (Kshs)	Variance (Kshs)
Receipts	3,263,655,000	3,236,765,000	(26,890,000)
Payments	3,274,596,843	3,290,346,644	15,749,801
Financial Assets	93,700,021	1,242,329,451	(1,146,629,430)
Financial Liabilities	93,685,412	850,450,505	(756,765,093)
Opening Balances (Net Financial Assets)	21,433,222	21,293,019	140,203

Although the Office of the Attorney-General and Department of Justice has attributed the variances to non-functional auto reconciliation function in IFMIS, it is not clear why the office cannot reconcile its records. Further, failure to maintain accurate records in IFMIS may imply inaccuracy and incompleteness of the financial statements.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June 2015 could not be ascertained.

Submission of Accounting Officer

The variance was as a result of auto-reconciliation in the IFMIS not being fully functional and Central Bank of Kenya not having been able to post all the bank statements for uploading by the IFMIS department. However, the figures in the financial statements are the actual figures and are supported by the relevant notes in the financial statements.

Committee Observation and Finding

The variance was as a result of auto-reconciliation in the IFMIS not being fully functional and Central Bank of Kenya not having been able to post all the bank statements for uploading by the IFMIS department. However, the figures in the financial statements are the actual figures and are supported by the relevant notes in the financial statements.

Committee Recommendation

The National treasury needs to fully operationalize the auto-reconciliation function of IFMIS to enable agencies to submit proper reconciliations.

210. Unsupported Revenue Expenditure

The statement of receipts and payments reflects proceeds from domestic and foreign grants of Kshs.300, 000,000 as at 30 June 2015. It was alleged that the donor agencies paid the funds directly to recipient projects/programs and the expenditure incurred thereon in form of Research, Studies, Project Preparation, Design and Supervision.

However, no supporting documentation has been provided for audit review to confirm the amount received and spent by the Office of the Attorney-General and Department of Justice.

Consequently, it was not possible to confirm the accuracy and propriety of the revenue or expenditure of Kshs.300, 000,000.

Submissions of Accounting Officer

The Accounting Officer submitted that this expenditure of Kshs. 300,000,000.00 was based on returns forwarded by the recipient – Department of Justice (DOJ) and captured in its receipts and Payments statement for the year under review being the proceeds from domestic and foreign grants as a fund for 2015 GIZ "Good Governance". These were foreign grants and donor funds that were released directly to the programme and the AG's office never received exchequer for the monies. The donor instituted their own mechanism of auditing the implementation of these activities without the involvement of the Auditor General.

Committee Observation and Finding

The variance between IFMIS and Financial Statements was a recurring issue especially donors did not avail supporting documentation for funds disbursed, hence making it difficult for auditors to audit use of funds.

Committee Recommendations

1. **The National Treasury needs to ensure that the External Resources Policy conforms to domestic laws of public finance.**
2. **In the short term, the National Treasury should assist the Auditor General get certified copies of expenditure records.**

211. Pending Bills

During the previous financial year, the Office of the Attorney-General and Department of Justice disclosed pending bills amounting to Kshs.17, 060,902.45. However, this figure was understated by Kshs.16, 122,500.00 of other pending bills that were not disclosed and supported and have subsequently been paid in the year 2014/2015.

Further, the pending bills for the financial year 2014/2015 amounted to Kshs.204,450,444 out of which Kshs.14,215,439 remained unpaid as at the time of audit and is likely to distort the 2015/2016 budget. In addition, Note 24 reflects Kshs.93, 685,412 as accounts payable whereas Note 26.1 to 26.3 reflects nil balance.

Committee Observations and Findings

1. **The matter had been resolved as the Office of the Attorney General had submitted documentation indicating that pending bills had been treated as first charge in the subsequent financial year.**
2. **Had the Accounting Officer acted in time as per the Constitutional timelines on audit, this matter would not have been an audit query.**

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts promptly on the Auditor General's management letters to forestall audit queries.

212. Cash and Cash Equivalents

Examination of the recurrent account bank reconciliation statement revealed payments in cash book not in bank statement of Kshs.104,619,219.36 out of which Kshs.35,744,293 have been long outstanding and also payments in bank statement but not in cash book amounting to Kshs.53,132,463 out of which Kshs.45,162,116 have been long outstanding.

Although the office has explained that they have adjusted their cash book with Kshs.33, 127,388 and Kshs.33, 078,871 respectively and further explained that most of the payments in bank and not in cash book were pay advances that were paid by Central Bank of Kenya on their behalf to foreign banks, no analysis was provided to support and justify the adjustments.

In the circumstances, the cash and cash equivalents balance of Kshs.93, 871,592.30could not be confirmed.

Committee Observations and Findings

The matter was noted as resolved

213. Non-Disclosure of Fixed Assets

As previously reported in Annex 4 to the financial statements, the office of the Attorney-General and Department of Justice had fixed assets of Kshs.165,132,187(2013:Kshs.183,260,588) as at 30 June 2014. However, the Office of the Attorney-General and Department of Justice did not maintain a fixed assets register during the year and did not disclose any fixed assets in Annex 4 as at 30 June 2015. It was therefore not possible to verify and confirm the fixed assets maintained and added or disposed during the year. In the circumstances, the accuracy of nil balance, the existence, security and values of the fixed assets of the office could not be ascertained.

Committee Observations and Findings

The matter was noted as resolved.

Other Matter

214. Weak Internal Control

Office of the Attorney-General and Department of Justice has weak internal control;

i) There is no system in place for capturing and verifying data from direct payments by the donors. Thus figures reflected in the financial statements about these payments are not supported and their accuracy could not be ascertained.

ii) Internal Control Environment and Policies

a) There are no risk assessment processes implemented at the Office and there is no evidence of disaster recovery plan/business continuity program that is put in place.

b) There is no documented and approved risk management policy and there are no written policies and procedures to guide key processes for management of assets, revenue, expenditure, personnel and service delivery.

c) There is no Information Technology (IT) Strategic Plan and committee to guide IT governance and align it to the strategic objectives of the Office.

Data integrity is upon which the financial statements are prepared by the office is doubtful.

Committee Observation and Finding

The Management tabled documents to support its submission that the matter relating to weak internal control under paragraph 214 had been resolved as Management had instituted policy remedies to the satisfaction of the Auditor General. The matter stands as resolved.

215. Budget and Budgetary Control

The Office of the Attorney-General and Department of Justice had a total budget for the year

2014/2015 of Kshs.3, 482,018,843 for both recurrent and development expenditure. However, the Office utilized a total of Kshs.3, 002,775,301 resulting in an underutilization of Kshs.479, 243,542 (1 percent) of the total budget. Further, the office did not receive Kshs.801, 509,542 (21 percent) of the planned exchequer releases to implement its annual objectives.

The major budget variance was as follows:

No.	Item	Budget(Kshs.)	Actual(Kshs.)	Variance(Kshs.)	percent
1.	Under-expenditure in acquisition of assets	124,866,901	56,283,561	68,583,340	45 percent
2.	Increase in expenditure in respect of Research studies and projects	300,000,000	87,804,497	212,195,503	70 percent

The under expenditure on acquisition of assets has a negative impact on service delivery and the huge increase in research studies reflects an unrealistic budget.

My opinion is not qualified in respect of these matters.

Submission of the Accounting Officer

The underutilization of Kshs.479, 243,542.00 (13 percent) of the total budget was occasioned by:

a) Under expenditure in acquisition of assets of Kshs.68, 583,340.00 due to lengthy procurement process.

b) Some suppliers could not cope with supplying in time.

c) Increase in expenditure in respect of research studies and projects of Kshs.212, 195,503.00. The development funds were released a bit late in the financial year curtailing the successful absorption of the funds in the course of the year and forcing some research not to be done as the funds were not received within the anticipated time.

d) At times IFMIS system could not open and just hang up delaying in the day to day operation.

Committee Observation and Finding

The matter was resolved.

Committee Recommendation

The Accounting Officer was advised to ensure proper budgeting.

OFFICE OF THE ATTORNEY-GENERAL AND DEPARTMENT OF JUSTICE – OFFICIAL RECEIVER

Unqualified Opinion

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

Emphasis of Matter

I draw your attention to the following weaknesses in the internal control systems of the Official Receiver:

a. There was no risk management policy in place during the year under review.

b. No risk assessment was carried out to identify and address key areas of concern and document specific controls in response to identified risks – There is no evidence that management assessed the internal controls applicable to address any material weaknesses that could be inherent in the controls.

c. The Official Receiver has not produced operating manuals to guide key processes and controls for receipts from debtors/customers, payments to creditors, personnel, expenditure, assets and liabilities and investments.

d. There was no operational plan for the year under review.

e. Most systems of the Official Receiver are manual

f. The institution does not have an approved Information Technology (IT) strategic plan and security policy.

g. The institution has no formal, documented and tested disaster recovery plan/emergency procedure in place, to guide on cases of emergency.

My opinion is not qualified in respect of this matter.

Committee Observation and Finding

The matter was noted as resolved

REVENUE STATEMENT OF OFFICE OF THE ATTORNEY-GENERAL AND DEPARTMENT OF JUSTICE

Basis for Qualified Opinion

216. Revenue Budget Analysis

The revenue statement reflects actual collections of Kshs.430, 482,650 against estimated receipts of Kshs.504, 640,710. However further scrutiny of sources of revenue reveals huge over and under collections particularly in respect of Registration of Companies (Over-Kshs.260,374,071) or 1385 percent, Registration of marriages (Over-Kshs.71,184,216) or 1312 percent, Registration of Books and Newspapers (Under-Kshs.9,721,343) or 98 percent and Public Trustees Fees – (Under-Kshs.401,165,523) or 88 percent among others. Although the under and over collections were attributed to introduction of Huduma Centers, the Office has not explained the steps it has taken to ensure that its revenue estimates are as realistic as possible. Further, the drastic drop in some sources of revenue compared to 2013/2014 has not been justified.

Committee Observations and Findings

The Management tabled documents to support its submission that the matter relating to Revenue Budget Analysis under paragraph 216 had been resolved by Management to the satisfaction of the Auditor General. The matter stands as resolved.

217. Difference between Revenue Statements Amounts and Records Reported at the Collection Points

The Office of the Attorney-General and Department of Justice has several revenue collection points including the Public Trustee. Revenue reported to have been collected should tally with the records maintained at each of the collection points. Review of the records maintained by the Public Trustee revealed that there were variations between the revenue collected by the Department and the amount reflected in the statement of revenue by the Receiver of Kshs.7, 101,240.45 and Kshs.6, 533,313 which were return to drawer (RD) cheques returned for collection to various Public Trustees stations and to various Deputy County Commissioners respectively. It was not clear and the Office has not explained the current status of the cheques as at 30 June 2015.

Committee Observations and Findings

The Management tabled documents to support its submission that the matter relating to difference between revenue statements amounts and records reported at the collection points under paragraph 217 had been resolved by Management through reconciliation of figures to the satisfaction of the Committee.

KENYA LAW REFORM COMMISSION

Unqualified Opinion

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

JUDGES AND MAGISTRATES VETTING BOARD

Unqualified Opinion

There was no material issues noted during the audit of the financial statement

15.0. JUDICIARY

FINANCIAL STATEMENTS FOR VOTE 121

Mrs Anne Amadi, CBS, the accounting officer and the Secretary Judicial Service Commission appeared before the Committee on 24th April 2018 and 26th Aprilaccompanied by David Rapando; Chief Finance Officer, Frida Mokaya; Registrar Judicial Service Commission, Ronald Wanyama; Ag. Director Audit and Risk Management, Edwin Mureti Mbu; Senior Finance Officer, Sharaon Mwanyuli; Resident Magistrate to adduce evidence on the audited Financial Statements of Vote121 Judiciary for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

221. Unsupported Foreign Grants

During the year under review, the United Nations Development Programme (UNDP) extended financial support towards reforms in the Judiciary to the tune of Kshs.47, 007,198. Examination of relevant documents revealed that Judiciary as the implementing partner in the Judiciary Transformation Support Project only prepares financial requests for specified functions which are paid for by the financing partner. The implementing partner does not maintain a cashbook and does not prepare payment vouchers for any expenditure incurred. A total of Kshs.47, 007,198 was incurred in the implementation of the project in the year under review but the expenditure could not be verified because the payment vouchers and the relevant supporting documents were alleged to be in the financing partner's custody.

In view of the foregoing, the foreign grants of Kshs.47, 007,198 and the expenditure thereof could not be ascertained.

Submission by Accounting Officer

The Judiciary entered into a financing agreement with UNDP under the Judiciary Transformation Support Project. The financing agreement provided for various funding modalities including direct payment to vendors after provision of services to the Judiciary. In this regard, Kshs. 47,007, 198.00 was paid directly by UNDP for goods and services provided to the Judiciary under the project and kept payment vouchers. The payment vouchers and supporting documents for these transactions are available for audit verification at the UNDP offices. Attached also is a copy of the financial statements for project showing the expenditure from the grant.

Committee Observations and Findings

With respect to paragraph 222, Kshs. 47,007, 198.00 was paid directly by UNDP for goods and services provided to the Judiciary under the project and kept payment vouchers. The payment vouchers and supporting documents for these transactions are available for audit verification at the UNDP offices.

Committee Recommendation

Accounting Officers must at all times ensure that Non-Governmental Organisations that implement development programs funded by public funds, including donor funding are accountable through regular financial reporting and submission of audited annual financial statements to the relevant accounting officer inaformat prescribed by the Public SectorAccounting Standards Board pursuant to the provisions of regulation 78(1)(e) of the Public Finance Management (National Government) Regulations, 2015.

222. Irregular Payment

Included in the figure of Kshs.16, 358,600 in respect of board expenses is Kshs.3, 025,500 which represents payment of monthly allowances to staff who attended board committee meetings of Auctioneer Licencing Board. As per Office of the President circular NO.OP/CAB.2/12A(9) of 29th August 2003, public servants attached to commissions, committees and boards are entitled to be paid one third (1/3) of the amount paid to non-public servants in a given board/commission/committee. However, the Auctioneers Licensing Board paid Kshs.1, 196,667 over and above the amount stipulated in the Circular**.**

Consequently, the expenditure of KShs.1, 196,667 is not a proper charge to the public funds and has not been recovered to date.

Submission by the Accounting Officer

The acconting officer admitted that it was true that the Auctioneers Licensing Board paid a total of Kshs. 1,196,667 to board members who are employees of the Judiciary. This because the government delinked the Judiciary from the main civil service with respect to the terms and conditions of service of its staff with effect from 1st January, 1993 vide Gazette Notice No. 3801 dated 8th May, 1995, (**Annex 3**). The rates of allowances payable to chairman, members and secretariat of the Auctioneers Licensing Board have since then been guided by circulars. On 4th November, 2011, the Chief Justice in his capacity as Chair of Judicial Service Commission approved the current rates payable to Board Members and Secretariat of ALB. The allowances paid to the staff were in accordance with the approval of the Chief Justice.

Committee Observations and Findings

1. **The Accounting officer tabled documents to support its submission that the matter relating to Irregular Payment of allowances under paragraph 222 had been resolved by Management through a circular authorized by the Chief Justice to the satisfaction of the Auditor General.**
2. **The Committee marked the matter as resolved.**

223. Cash and Cash Equivalents

223.1 The cash and cash equivalents balance of Kshs.117, 539,897.00 represents three bank accounts namely recurrent, development and project (JPIP). Further, the judiciary maintains bank accounts at the Kenya Commercial Bank (KCB) for AIE-Recurrent and development accounts in all the 120 court stations. At the end of the financial year these court accounts are expected to have a nil balance because any outstanding balance should be remitted to the main accounts at the central bank. However, Kshs. 18,255,732.20 outstanding balances for six (6) court stations of Homabay, Kerugoya, Gatundu, Kehancha, Nyando and Taveta had not been transferred to the headquarters account at the central bank of Kenya. No explanation was provided for the anomaly.

Submission by Accounting Officer

The six court stations namely Homabay, Kerugoya, Gatundu, Kehancha, Nyando and Taveta surrendered the bank balances in their respective bank accounts to the Judiciary headquarters recurrent bank account at CBK and the cash book adjusted accordingly as analysed below:

S. No.	Court Station	Amount Surrendered	Date of Surrender	Remarks
1.	Homabay	0	N/A	The court station spent all AIE funds disbursed. The balance of KShs.2,247,345.40 in the court station's bank a/c relates to deposits
2.	Kerugoya	137,319	30.7.2015	This relates to AIE
		11,522,375	12.8.2015	This relates to development
3.	Gatundu	0	N/A	The balance in the bank account of KShs.4,107,728.50 relates to deposits (**Annex 5**)
4.	Kehancha	0	N/A	The court station spent all AIE funds disbursed. The balance of KShs.131,091.60 in the court station's bank a/c relates to deposits
5.	Nyando	0	N/A	The court station spent all AIE funds disbursed. The balance of KShs.76,331.70 in the court station's relates to deposit
6.	Taveta	33,541	30.7.2015	This relates to AIE
		11,693,235		

Gatundu, Homabay, Kenhancha and Nyando Law Courts surrendered their AIE at the end of the financial year whereas Kerugoya Law Courts surrendered an amount of Kshs.137, 319 on 30th July 2015 and Taveta Law courts surrendered an amount of Kshs.33, 541 on 30th July 2015. A circular was sent out to all court stations to address the issue of late surrender

The deposit money has since been transferred to rightful accounts.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the outstanding balances of Kshs. 18,255,732.20 comprised of surrendered AIE all of which had been deposited in the correct bank accounts as of 30th July 2015 was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

223.2 Outstanding Imprests and Salary Advances

Included in the Imprest and cash balance of Kshs.11,803,266.00 as at 30th June 2015 is an amount of Kshs.3,859,025.00 which has been outstanding for almost a year and has not been recovered to date. Further, the cash balance differs with the balance of Kshs.11, 871,262.00 shown in Note 10 by Kshs. 67,996.00.

No explanation has been provided for this anomaly and the recoverability of the outstanding imprest is doubtful.

In view of the foregoing, the accuracy and completeness of the cash and cash equivalents balance of Kshs.117, 539,897.00 as at 30th June 2015 could not be confirmed.

Submission by the Accounting Officer

Out of the Kshs. 3,859,025.00 that was long outstanding, only Kshs.56, 000 is outstanding out of which Kshs.30, 000 was advanced to a police officer attached to a judge and KShs.26, 000 was advanced to a judiciary staff that resigned but had not been cleared at the time of audit. The Judiciary has written to the Police to recover the money owed by the police officer. The rest has since been surrendered or recovered from the concerned staff.

The difference between the outstanding imprest as per the financial statement and note 10 of KShs.67,996 is as a result of movement in the general ledger balance after production of financial statement caused by a later surrender of imprest by an officer thus affecting domestic travel and outstanding imprest

Committee Observation and Finding

The explanation by the Accounting Officer that the difference between the outstanding imprest as per the financial statement and note 10 of KShs.67,996 is as a result of movement in the general ledger balance after production of financial statement caused by a later surrender of imprest by an officer thus affecting domestic travel and outstanding imprest was acceptable.

Committee Recommendations

1. **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.**
2. **Where the accounting officer fails to recover outstanding imprest of Kshs. 3,859,025.00, the Accounting Officer should be surcharged pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

224 National Health Insurance Fund Contributions

The judiciary did not effect the new NHIF rates with effect from 1st April 2015 as expected and specified by the legal notice No/107 but commenced the revised rates as from July 2015. Arising from the failure to apply the new rates in the months of April, May and June 2015 the Judiciary failed to remit an amount of Kshs.14, 415,410.00. Failure to comply with the gazette notice supplement No.12 is a breach of laws and regulations and this reflects negatively on the Judiciary, an Institution which is the custodian on the application of laws of the Republic of Kenya.

No explanation has been provided for the anomaly and the Judiciary risks payment of huge penalties to the fund

Submission by Accounting Officer

It is true that Judiciary did not effect the new NHIF rates with effect from 1st April 2015 as specified in the Legal Notice No. 107 this because the Gazette No. 107 providing the new NHIF rates was challenged in court. The case was thrown out in June, 2015. Thus Judiciary could only effect the deductions of NHIF revised rates in the following month payroll. It was effected from 1st July, 2015. The delay in effecting the NHIF revised rates has now been rectified through the CRJ's memo which directed that the arrears in respect of the three months of April, May and June, 2015 be recovered from staff in three installments, with effect from 1st July, 2016.

Committee Observations and Findings

1. **The explanation by the Accounting Officer is that Judiciary did not effect the new NHIF rates with effect from 1st April 2015 as specified in the Legal Notice No. 107 because the Gazette No. 107 providing the new NHIF rates had been challenged in court. Consequently, the case was thrown out in June, 2015 and NHIF revised rates had been rectified through the CRJ's memo which directed that the arrears in respect of the three months of April, May and June, 2015 were recovered from staff in three installments with effect from 1st July, 2016 was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

225 Acquisition of Assets

During audit inspection of construction of court buildings in various courts and various court operations in the month of September 2015, the following observations were made:-

225.1 Narok Law Courts

The Judiciary awarded contract for erection and completion of Narok Law Courts to a construction firm for Kshs.20, 583,210 contracts No D26RV/NRK/601 Job No. 8174A to commence on 1 August 2007 for 52 weeks to be completed on 28 August 2008. The contract was extended up to 30 November 2009 and a cost variation of Kshs.3, 032,307.20 without any justifiable reasons. Although the contractor was required to enter into a sub-contract agreement with another firm for plumbing, drainage and fire protection at a cost of Kshs 2,257,441.20, it whether it materialized as no evidence was availed. Due to poor performance, the contractor was given 14 days on 9th December, 2009 to complete the works or the contract be terminated in accordance with clause 33 of the conditions of the Contract.

However, in unclear circumstances, and instead of terminating the contract, the contractor was paid Kshs 1,154,756.80 (certificate No. 9 dated 11 December, 2009), Kshs.570, 636.50 (retention fees), KShs.2, 107,684.30 (certificate No. 11 of 8 October, 2010) and KShs.1, 189,401.30 (certificate No.10 of 11 November, 2010).

After the above unclear payments, the project was still incomplete and it was handed over to Judiciary on 22 March 2011. Judiciary then advertised the works afresh and awarded the fresh works to a different construction firm at Kshs.65, 194,539 on 28 April 2015.

In the circumstances, it is not clear and Judiciary has not explained how much the project has costed the tax payer and why the first contractor could not complete the project despite being paid over 95 percent of the contract sum. Further Judiciary should explain why due diligence was not carried out to protect public funds and interests.

Submission by Accounting Officer

The Accounting Officer submitted thatthefirst contract was entered into eleven (11) years ago and the first phase costed the Judiciary Kshs.20, 583,210. During implementation of the project, it was noted that various items were not included in the contract, thus necessitating variation and redesign. The variation of KShs.3, 032,307.20 was approved by the Judiciary Tender Committee meeting held on 28th September, 2009, based on the project manager's recommendation letter which included a financial appraisal and the contractor's request for extension of the contract period. The project manager vide letter dated 20th November, 2009 to Loima contractors instructed the main contractor to enter into standard sub-contract agreement with M/S Jimwa Construction and Services Company Ltd of P.O. Box 12744, Nakuru for plumbing, drainage and fire protection works at a contract sum of KShs.2,257,441.20.

Due to poor performance, the project manager gave the contractor 14 days' notice to complete the contract or it be terminated via letter dated 9th December, 2009. The contractor responded via letter dated 18th December, 2009 stating that delays were due to effects of post-election violence and delays in settling certificate No.8 dated 15th October, 2009. On 21st December, 2009, the contractor issued a Default Notice to be paid certificate No. 8 to be paid within 14 days. The contractor was paid and resumed work as evidenced by Site Meeting Minutes No.14 dated 21st April, 2010. This is why the contract was not terminated.

The contractor requested for extension of the contract period to 9th April, 2010 through letter dated 11th March, 2010, which was recommended by the project manager. Certificate No.9 dated 11 December, 2009 was paid within the contract period which had been extended. The site meeting No. 14 held on 21st April, 2010 resolved that the contractor hands over the project as it is and the remaining works be carried over to phase II see Site Meeting minutes. The total cost of the project to the Judiciary was KShs.22, 382,684.90 as per certificate No. 11 see copy of interim certificate.

Due diligence was carried out by the Judiciary which led to a reduction of the construction cost. The initial offer for the contract was Kshs.107, 000,000 but the Judiciary rejected the offer and cost came down to Kshs. 65,194,539.30.

The additional works for phase two are as per the attached letter from the project manager dated 27th May, 2010.

Committee Observation and Finding

The explanation by the Accounting Officer that the site meeting No. 14 held on 21st April, 2010 resolved that the contractor hands over the project as it is and the remaining works be carried over to phase II was not satisfactory as the variation of Kshs. 3,032,307.20 was approved by the Judiciary Tender Committee meeting held on

28th September, 2009, based on the project manager's recommendation letter which included a financial appraisal and the contractor's request for extension of the contract period and contrary to the section 47 (b) of the Public Procurement and Disposal Act, 2005 and Regulation 31 of the Public Procurement and Disposal Regulations, 2006 that stipulate that where there is variation in the scope of works the variation must be executed within the period of the contract.

Committee Recommendations

1. **Within three months of the adoption of this report, the Accounting Officer who was in office at the material time should provide an explanation for accepting handover of the law courts contrary to section 47 (b) of the Public Procurement and Disposal Act, 2005.**
2. **Failure to provide the explanation, the Accounting Officer should be surcharged with Kshs. 3,032,307.20 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

225.2 Eldama Ravine Law

Judiciary awarded two contracts Nos JUD/106/2014/2015 and JUD/107/2014/2015 for construction of new court and refurbishment of the law court building at a cost of Kshs.65, 505,814.80 and Kshs.4, 304,365.80 respectively. The contracts were awarded to two construction firms on 4 February 2015. However, some tender documents were not typed and had alterations which casted doubts on the credibility of the whole tender process. Further, no title deeds were made available for audit verification.

As a result, the propriety of the expenditure of Kshs.69, 810,180.60 could not be ascertained.

Submission by Accounting Officer

(i) It is true that the Judiciary awarded two contracts Nos. JUD/106/2014/2015 and JUD/107/2014/2015 for construction of a new law court and refurbishment of a court building at a cost of Kshs. 65,505,814.80 and Kshs. 4,304,365.80. By this time the Judiciary relied on Public Works to prepare the tender documents. The Tender was opened, evaluated and awarded the by County Tender Committee having satisfied itself that all documents were well done and in order. Therefore, it is not true that the Tender documents had credibility issues, the process followed procurement laws. The minutes of tender opening, evaluation reports and minutes of award for the two projects are hereby attached.

(ii) The Chief Justice appointed a committee dealing with assets of the Judiciary. The work is still on-going and the report will be ready in June 2018.

Committee Observations and Findings

1. **The explanation of the Accounting Officer that the Tender was opened, evaluated and awarded the by County Tender Committee having satisfied itself that all documents were well done and in order and therefore it was not true that the**

Tender documents had credibility issues was unsatisfactory insofar as the Accounting Officer did not explain why some tender documents in the custody of the Auditor General were not typed and had alterations and no titles had been submitted for audit verification.

2. **The Accounting Officer during the period under review was Ms. Anne Amadi.**

Committee Recommendations

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 Kshs. 69, 810,180.60 and entering into a contract for procurement without lawful tender documents contrary to the provisions of section 196(1) ofthePublic 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 Kshs. 69, 810,180.60 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

225.3 Kakamega Law Courts

Judiciary on 15 May 2015 awarded contract No. JUD/130/2014/2015 for the construction of public toilets, guardroom, holding cells extension to customer care unit, repair to parking driveway, storm water drainage and masonry wall fencing to a construction firm at a cost of Kshs.34,670,412.80. However, the award was later contested by Judiciary who stopped the site handover on 16 July 2015 for further investigations on the tender process. Further, even though the project was supposed to commence on 23 June 2015, the project has not kicked off by the time of audit in January, 2016.

In the circumstances, it is not clear what the Judiciary's way forward is to avoid possible risks of litigations and to save the tax payers money.

Submission by Accounting Officer

The tender was advertised by the Judiciary headquarters and the bid documents deposited at the district treasury. Evaluation was carried out at the court station. The contract was then forwarded to the CRJ for signature. After signing the contract, the Accounting Officer received information that the contract was not properly procured, hence the Accounting Officer requested the court station not to hand over the site until after the Internal Audit and Risk Management Directorate had reviewed the entire evaluation process. The internal audit review ascertained that none of the 28 bidders fulfilled all the mandatory requirements of the tender as stipulated in the call for invitation to tender at Section VI of the tender document. It was therefore decided that the tender be terminated because of this anomaly. See tender committee minutes terminating the tender. Following the termination of the award, the contractor has not disputed and thus there is no litigation.

Committee Observations and Findings

1. **The explanation of the Accounting Officer that the project worth Kshs.34,670,412.80 had not kicked off by the time of audit in January, 2016 because the Accounting Officer had received information that the contract was not properly procured, requested the court station not to hand over the site until after internal audit review, which process ascertained that none of the 28 bidders fulfilled all the mandatory requirements of the tender as stipulated in the call for invitation to tender at Section VI of the tender document was satisfactory.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer should commence tender for the for the construction of public toilets, guardroom, holding cells extension to customer care unit, repair to parking driveway, storm water drainage and masonry wall fencing.

225.4 Mavoko Law Courts

(i) Judiciary on 4 February 2014 awarded contract No. Jud/88/2014/15 of Kshs. 2,511,000 to a company for installation of two containers. Although the containers were installed, it was however noted that they did not meet minimum required court standards due to lack of set up necessary partitions and their limited sizes.

In the circumstances, it was not clear whether Judiciary and the tax payer got value for money of Kshs.2, 511,000 spent on the project.

(ii) Further, although the Judiciary in the year 2013 spent Kshs.46, 458,069 for the construction of a prefabricated court at Mavoko, there was no evidence on the ground as the court operates from the two steel containers with one container placed dangerously on top of the other.

It is not clear therefore how the Kshs.46, 458,069 was accounted for and whether Judiciary got value for the money.

Submission by Accounting Officer

i) The Accounting Officer admitted thatit was true that the Judiciary awarded a contract No. JUD/88/2014/2015 of Kshs. 2,511,000 to a company for installation of two containers and other works. The scope of works as outlined in the BQ attached among other things required for supply and delivery of two (No.) containers, which did not require partitioning. The other works to be done included paving the compound, construction of public waiting area (timber and corrugated iron sheets) and exhibit store (timber and corrugated iron sheets). Therefore the works were carried out as per the BQ specifications.

ii) The Accounting Officer admitted thatit was true that the Judiciary awarded a contract for construction of a prefabricated court at Mavoko Law Courts for Kshs. 46,458,069. When the contractor went to site, it was realized that Judiciary did not have land to construct the court at Mavoko as the court operates from County government compound. The contract was redirected to Runyenjes Law Courts.

Committee Observations and Findings

1. **The scope of works as outlined in the Bill of Quantities required for supply and delivery of two containers, which did not require partitioning. Therefore the works were carried out as per the BQ specifications.**
2. **The Judiciary awarded a contract for construction of a prefabricated court at Mavoko Law Courts for Kshs. 46,458,069. When the contractor went to site, it was realized that Judiciary did not have land to construct the court at Mavoko as the court operates from County government compound. The contract was redirected to Runyenjes Law Courts.**
3. **The Judiciary did not conduct due diligence at the point of procuring and awarding a contract for construction of a prefabricated court at Mavoko Law Courts for Kshs. 46,458,069**

Committee Recommendation

Accounting Officers must always ensure that they 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.

225.5 Embu Law Courts

Judiciary on 30 September 2014 awarded a tender to a firm for the construction of Embu High court building at a cost of Kshs. 229, 325,146. However, tender documents were not made available for audit verifications as at 30 June 2015. In the circumstances, it was not possible to ascertain that proper procurement procedures were followed in the court construction and whether the expenditure was a proper charge of public funds.

Submission by Accounting Officer

The Accounting Officer submittedthat the tender documents are available for audit review. At the time of visiting the court station, the tender documents had been kept at the Judiciary headquarters the documents have since been relocated to the court station with copies left at headquarters.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the Tender documents were not available for audit review at the time of visiting the court station, because they had been kept at the Judiciary headquarters was reasonable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they providetheAuditor 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.

225.6 Court Deposits

Scrutiny of Embu Chief Magistrate's deposit ledger showed that it included neither deposits which were deposited in the year 2003 and which had not been claimed nor their cases determined. It was not possible to establish the status of those cases or why the deposits remained unclaimed.

In the circumstances, it was not possible to ascertain the amount of court cash deposits held by the Embu Law Courts as at 30 June 2015.

Submission by Accounting Officer

It was true that there were deposits made in 2003 and that the cases had not been determined. Refund of deposits is done after conclusion of the case and upon claim by the depositor.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that there were deposits made in 2003 in court cases which had not been determined and refund of deposits would done after conclusion of the case and upon claim by the depositor was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officers must at all times ensure that they providetheAuditor 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.

226. Suspense Deposits and Outstanding Bank Payments.

Examination of courts refunds made revealed that not all stations have submitted their bank reconciliation statements and the refunds were not fully supported. Further, outstanding deposit account reconciliation showed a suspense balance totaling to Kshs. 93,068,013.97 that has not been explained. In addition, the year-end reconciliation in Supreme Court has an outstanding payment in bank but not in the cashbook totaling to Kshs.62, 863,086.00. These payments are neither supported nor explained as to what they represented. Consequently, the total deposits account balance of Kshs.3, 151,128,372.15 as at 30 June 2015 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted thattheCourt stations prepared and submitted bank reconciliation statements at the end of the financial year and availed for audit review. Deposit refunds are supported by copies of court orders, identity card of depositor and original deposit receipts or affidavit in case of loss of the original receipt.

The suspense balance of Kshs.93, 068,013.97 originated as a result of historical difference between the deposits ledger and deposits bank account balances when the Judiciary accounts were maintained by the District Treasuries. The Judiciary is in the process of delinking from the district treasuries and reconciling the deposits bank accounts to ascertain the actual position.

The outstanding payment in the bank not in the cash book totaling KShs.62, 863,086.00 originated from fraudulent payments and the case is still pending in court. See charge sheet attached.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the outstanding payment in the bank not in the cash book totaling KShs.62, 863,086.00 originated from fraudulent payments and the case is still pending in court was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

227 Chief Magistrates Courts – Kitale

227.1 Purchase of Furniture

Examination of records at the Chief Magistrate Office, Kitale revealed that out of a total recurrent expenditure of Kshs.8, 643,955.00 an amount of Kshs.969, 225 was spent on the purchase of furniture from Prisons Industry Fund. However, no inspection and acceptance certificates were issued contrary to Section 17(1) (4) (b) (c) of the Public Procurement and Disposal Regulations, 2006.

In the absence of the inspection and acceptance committee's certificate, it has not been possible to determine whether the furniture supplied met the technical standards and whether the Judiciary got value for money.

Submission by Accounting Officer

It is true that Kitale Law Courts procured furniture totalling Kshs. 969,225 from Prisons Industry Fund, the procurement was undertaken in accordance with Section 4(2) of the Public Procurement and Disposal Act 2005. The furniture was inspected and accepted and recorded in the S11.

Committee Observations and Findings

1. **The Accounting Officer tabled the inspection and acceptance report together with S11 for audit review.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

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

227.2 Failure to maintain a Fixed Assets Register

During the year under review, the Judiciary did not maintain a fixed asset register to keep details of assets acquired during the year totalling Kshs.902,752,829 and brought forward balance of Kshs.1,457,592,424 (Note 7).

Further, its Kitale court did not maintain the asset register for assets used. It was therefore not possible to ascertain the existence, location, the number and value of assets in the custody of the department at the time of carrying out the audit.

In the absence of the fixed assets register, proper accountability of assets purchased, handed over and disposed off might not be guaranteed.

Consequently, the existence, valuation, accuracy and security of the fixed assets stated at Kshs.2, 390,345,253 as at 30 June 2015 could not be confirmed.

Submission by Accounting Officer

Kitale Law Courts maintains an inventory of fixed assets**.** The Judiciary is in the process of compiling a comprehensive fixed assets register which is still in draft form.

Committee Observations and Findings

1. **The Judiciary is in the process of compiling a comprehensive fixed assets register for Kitale Law Courts which is still in draft form.**
2. **The matter remains unresolved.**

Committee Recommendations

1. **Within nine months of the adoption of this Report, the Accounting Officer should avail to the Auditor General a comprehensive fixed assets register for review and verification of Kitale Law Courts.**
2. **Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets inaway which ensures that thenational 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.**

228 Transfer to Other Government Units.

Included in the statements of receipts and payments and at Note 5 is Transfer to Other Government Units balance of Kshs.378, 861,368.00 as at 30th June 2015. However, Annex 3 supports a balance of Kshs.345, 373,587. The resulting variance of KShs.33, 487,781.00 has not been explained.

Consequently, the accuracy and utilization and accountability of the KShs.33, 487,781.00 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted thatit was true that the financial statements at Note 5 shows Transfers to Other Government Units balance of Kshs.378, 861,368 while Annex 3 supports a balance of Kshs. 345,373,587 resulting in a variance of Kshs. 33,487,781. The variance was caused by under stating of grants to:

i. National Council for Law Reporting (NCLR) by Kshs. 32, 903,690.
ii. National Council for Administration of Justice (NCAJ) by Kshs. 584,091.50

The balance of Kshs. 378,861,368 is now analyzed as per attached list.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the variance of Kshs. 33,487,781 occuring in the financial statements at Note 5 relating to Transfers to Other Government Units was caused by under stating of grants to National Council for Law Reporting (NCLR) by Kshs. 32, 903,690 and National Council for Administration of Justice (NCAJ) by Kshs. 584,091.50 was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they providetheAuditor 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.

229 Internal Audit

There was no evidence that internal audit section of Judiciary has been carrying out its duties. This is due to lack of reports generated by this sector with its recommendations and which indicates how this section is assisting Judiciary to improve its performance on service delivery. The reports prepared, recommendations made and further actions taken to improve the Judiciary operations were not availed for audit verification.

Submission by Accounting Officer

The Accounting Officer submitted thattheAudit and Risk Management Directorate carries out its duties in accordance with the Internal Audit Work Plan approved by the Audit, Governance and Risk Management Committee of the Judicial Service Commission (JSC). Attached, please find the internal audit work plan for the 2014/15 financial year. The directorate issues audit reports with recommendations, which assist the Judiciary to improve its performance on service delivery. During the period under review, the directorate carried out 28 comprehensive audits out of the 30 that had been approved by the Audit, Governance and Risk Management Committee. The audit reports are available for audit review. The audit reports are discussed by the Audit, Governance and Risk Management Committee of the JSC, which makes resolutions to improve the Judiciary operations. Furthermore, the directorate makes a follow up on the implementation of audit recommendations.

Committee Observation and Finding

The explanation by the Accounting officer that Audit and Risk Management Directorate carries out its duties in accordance with the Internal Audit Work Plan approved by the Audit, Governance and Risk Management Committee of the Judicial Service Commission along with the internal audit reports tabled were acceptable.

Committee Recommendation

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.

230 Previous Years Matters

In Note 14 to the financial statements, the Judiciary has indicated that all matters except No. 5078 were resolved. However, Judiciary has not explained with sufficient evidence how the following matters were resolved.

Paragraph	Issue
507(a)	Stalled projects at Bomet, Wanguru and Othaya Law Courts
507(b)	Tenders at Kericho Law Courts
507(c)	Non-functioning WAN/LAN
510	Accuracy of cash and cash equivalent balance
512	Outstanding impressts and Advances
513(i)	Unsupported payments from deposit bank account
513(ii)	Unreconciled deposit at Nyamira Law Court

Submission by Accounting Officer

The Accounting Officer submittedthe above matters appeared in the Auditor General's Report for Financial year 2013/2014. The issues were discussed at the last Public Account Committee meeting and resolved. Copies of the responses provide at last PAC meeting are available.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

231Budget and Budgetary Control

S. No.	**Item**	**Category**	**Budget**	**Actual**	**Variance**	**perc ent**	**Comments**
1.	Receipts	Development	3,093,000,000	1,277,387,057	1,815,612,943	41pe rcent	Note 1
2.	Transfer to other Government Units	Development	167,000,000	65,967,038	101,032,962	40pe rcent	Note 2
3.	Acquisition of Assets	Development	1,776,000,000	825,031,189	950,968,811	46pe rcent	Note 3
4.	Other Expenses	Development	1,100,000,000	547,862,461	552,137,539	50pe rcent	Note 4
5.	Acquisition of	Recurrent	131,862,414	77,721,639	54,140,775	59pe	Note 5

	Assets					rcent	

231.1 Budget versus Actual Variances

The Judiciary received only 41 percent of the development funds. Further, the management spent on average 50 percent of the expenditure budget. No explanation has been provided for variances.

Submission by Accounting Officer

The Accounting Officer admitted thatthe budgetary allocation of KShs.3, 093,000,000 and actual receipts were as follows:

S. No.	DESCRIPTION	BUDGET	ACTUAL RECEIPTS	VARIANCE
	GOK	1,382,404,000	663,557,558.00	718,846,442.00
	JPIP	1,543,596,000	547,862,461.00	995,733,539.00
	UNDP	87,000,000	47,007,197.35	39,992,802.65
	FORD	80,000,000	18,959,840.65	61,040,159.35
TOTAL		**3,093,000,000**	**1,277,387,057**	**1,815,612,943**

The variance in receipts is attributed to the following factors:

1) Lengthy approval process for JPIP projects leading to delays in implementation and funding of projects.
2) Delays in exchequer releases by the National Treasury.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the variance of Kshs. 1,815,612,943 in receipts was attributed to a lengthy approval process for JPIP projects leading to delays in implementation and funding of projects and delays in exchequer releases by the National Treasury was satisfactory.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into a three months rolling basis and shall be adjusted to reflect any

implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

231.2 Revenue Analysis

Item	Category	2013/2014 Kshs	2014/2015 Kshs	Variance Kshs	percent	Comments
1. Proceeds from Domestic and foreign Grants	Receipts	568,156,260	47,007,197	521,149,063	91percent	Not explained
2. Other Expenses	Payments	316,780,247	1,200,442,365	883,662,118	278percent	Not explained

The huge drop in receipts and foreign grants of Kshs.521, 149,063.00 has not been explained. Further, the over-expenditure of Kshs.883, 662,118.00 in other expenses has not been justified. In addition, surplus for the year has dropped from Kshs.269, 286,893 in 2013/2014 to a deficit of Kshs. 139,943,733 in 2014/2015.

In the circumstances, the budget and budgetary control mechanisms by the Judiciary are weak and the planned and promised services have not been effectively delivered for the year ended 30th June 2015.

Submission by Accounting Officer

The Accounting Officer submitted thatin the year under review there was reduction in donor commitments leading to the drop in proceeds from the domestic and foreign grants. Other expenses of KShs.1, 200,442,365.00 consist of JPIP which is a loan and World Bank increased its commitment that year because of increased activities.

The budgetary control mechanisms were followed during this period and every expenditure was guided by the Government Financial Regulations.

Committee Observations and Findings

1) **In the year under review there was reduction in donor commitments leading to the drop in proceeds from the domestic and foreign grants.**
2) **Other expenses of KShs.1, 200,442,365.00 consist of JPIP which is a loan and World Bank increased its commitment that year because of increased activities.**
3) **The budgetary control mechanisms were followed during this period and every expenditure was guided by the Government Financial Regulations.**
4) **The Committee marked the matter as resolved**.

Committee Recommendations

Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into a three months rolling basis and shall be adjusted to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

232. Budget Absorption versus Cases Clearance.

During the year under review, the development budget absorption rate was estimated as 85percent while the current budget was estimated at 95percent. Further the case clearance rate was recorded as 76 percent (303,126 cases resolved) which was a decline from the 87percent (457,040 cases resolved) clearance in 2013/2014. Further, the Judiciary had 119 development projects during the year at varying stages of implementation to improve on courts and court facilities. However, it is not clear and Judiciary has not explained why both the budget absorption rates and the court cases clearance rates were on a decline while the tax payer expects enhanced services.

Submission by Accounting Officer

While the utilization of Recurrent Budget was 95 percent, the utilization of whole Judiciary Budget Vote (i.e. combined Recurrent and Development Votes) stood at 85 percent which was as result of low absorption of Development Vote due to lengthy procurement procedures, disputes in some contracts leading to delays in payments and the World Bank procurement procedures that requires obtaining no objection prior to start of any activity.

The court cases clearance rates were on a decline due to the following reasons:

(i) The nature of cases determined in the 2014/15 was more complex and required more time to determine.

(ii) In the 2013/14 financial year, Judicial Officers and Judges had a strict statutory time within which to clear the election petition cases. This led to more cases being determined in that year.

(iii)The slow workings of the Magistrates and Judges Vetting Board affected the work of judicial officers thus reducing case clearance rates.

Committee Observations and Findings

1. **The utilization of whole Judiciary Budget Vote (i.e. combined Recurrent and Development Votes) stood at 85 percent which was as result of low absorption of Development Vote due to lengthy procurement procedures, disputes in some contracts leading to delays in payments and the World Bank procurement procedures that requires obtaining no objection prior to start of any activity.**

2. **The court cases clearance rates were on a decline due to the following reasons:**

(i) **The nature of cases determined in the 2014/15 was more complex and required more time to determine.**

(ii) **In the 2013/14 financial year, Judicial Officers and Judges had a strict statutory time within which to clear the election petition cases. This led to more cases being determined in that year.**

(iii) **The slow workings of the Magistrates and Judges Vetting Board affected the work of judicial officers thus reducing case clearance rates.**

3. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into a three months rolling basis and shall be adjusted to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

REVENUE STATEMENT – THE JUDICIARY

233 Discrepancies in Revenue Records

233.1 Naivasha Law Courts

Records maintained at the station reflected the amounts of surrender to the Headquarters for court fines and court fees as Kshs.100, 923,964.00 and Kshs.11, 612,408.00 respectively. However, records maintained at the Headquarters had surrenders amounting to Kshs.110,192,341.00 and Kshs.10,583,445.00 for court fines and fees respectively and hence a difference of Kshs.(9,268,377.00) for court fines and Kshs.1,028,963.00 for court fees. The difference between the two sets of records have not been explained or reconciled.

In the circumstances, the accuracy and completeness of the revenue collected and surrendered from Naivasha Law Courts could not be confirmed as at 30 June 2015.

Submission by Accounting Officer

The Accounting Officer submitted that the difference between the station and headquarters surrender amount was caused by the problem of cut-off time where surrenders of previous year maybe recorded at headquarters as collection of this year and the station may record may collection because it had not surrender all the collections and the book of previous year.

This has now been solved by making sure that at end of every month the balances in revenue account automatically swept to the judiciary revenue collection account and the station surrender the required documents.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that The difference between the station and headquarters surrender amount was caused by the problem of cut-off time where surrenders of previous year maybe recorded at headquarters as collection of this year and the station may record may collection because it had not surrender all the collections and the book of previous year was satisfactory.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

233.2 Eldoret Law Courts

Fines

An audit inspection at Eldoret Law Court indicated that fines collected in the financial year 2014/2015 were Kshs.51, 984.727.000. However, the amount of fines surrendered at Headquarters totaled Kshs.38, 070,330.00 resulting to an unexplained difference of Ksh.13, 914,397.00.

Further, the revenue collection control sheet number 0192365 collected two different amounts Kshs.522, 360.00 and Ksh.1, 537,475.00 respectively. In addition, the amount of fees collected could not be confirmed as revenue collection control sheets and surrenders were not available for audit.

Consequently, the amount of fines and fees collected and surrendered from Eldoret Law Courts could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that the fines collected at Eldoret Law Courts during the 2014/15 financial year was KShs. 38,070,330 as analyzed in the table below and revenue collection schedule maintained at the Judiciary headquarters and not KShs.51,984,727.00 as reported in the audit finding. Copy of sample surrender miscellaneous receipts from station attached

MONTH	**FINE AMOUNT COLLECTED**
July 2014	1,148,880.00
August 2014	2,712,125.00
September 2014	9,051,088.00

October 2014	8,716,848.00
November 2014	0
December 2014	7,596,845.00
January 2015	2,154,395.00
February 2015	1,007,350.00
March 2015	1,049,940.00
April 2015	1,624,105.00
May 2015	1,331,424.00
June 2015	1,677,330.00
TOTAL	**38,070,330.00**

Committee Observations and Findings

1. **The explanation of the Accounting Officer that the fines collected at Eldoret Law Courts during the 2014/15 financial year was Kshs. 38,070,330 as analyzed in the table below and revenue collection schedule maintained at the Judiciary headquarters and not Kshs. 51,984,727.00 as reported in the audit finding was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

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.

Other Matters

234 Documents examined revealed that Naivasha Law Court station did not maintain collections and surrender documents such as a clear copy of collection control sheet (GO163 Revised), a properly prepared receipt voucher for each month and a summary indicating each month's surrender totals and the totals for each whole financial year at the year end. A number of these documents were missing or poorly filed making it difficult to confirm whether correct surrenders were made to headquarters.

Further a number of revenue receipt books were not accounted for in Meru Court Station.

Submission by Accounting Officer

The Accounting Officer admitted that it was true that at the time Naivasha Law courts was not maintaining copies of collection and surrender documents which are very clear as the court was keeping copies while the main copies were kept at the District Treasury. The other major challenge was lack of accounting staff in the station at the time. This has been resolved by posting an Accountant to the station.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that at the time Naivasha Law courts was keeping copies while the main copies were kept at the District Treasury because the station did not have accounting staff was reasonable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets in a way which ensures that the national government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.

DONOR FUNDED PROJECTS

CAPACITY DEVELOPMENT FOR SUPREME COURT OF KENYA PROJECT

Other Matter

235. The Capacity Development for the Supreme Court of Kenya Project Grant No.0130-0970 for $1,000,000 (Kshs. 52,120,000) was signed on 4 October 2013 for a two year period. However, no funds were received and utilized in the first year ended 30 June 2014. In the current year 2014/2015 only Kshs. 18,959,840 out of Kshs. 52,120,000 was utilized representing a paltry 36.4percent. Although the project has received a no-cost extension to 30 June 2016, the low project funds absorption may affect the achievement of the project goals and objectives.

Submission by Accounting Officer

The accounting officer stated that it was true the Capacity Development for Supreme Court of Kenya Project Grant was signed on 4 October 2013. The grant disbursement was delayed to start due to donor late provision of commitment to National Treasury and the low absorption in subsequent year was caused by the busy schedule of the Supreme Court as it was hearing election petition matters. The project was extended further to 30 June 2018 to achieve the project objectives.

Committee Observations and Findings

1. **The Accounting Officers explanation that the Capacity Development for Supreme Court of Kenya Project Grant was was delayed to start due to donor late provision**

of commitment to National Treasury and the low absorption in subsequent year was caused by the busy schedule of the Supreme Court as it was hearing election petition matters was acceptable.

2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must ensure that proper management and control of, and accounting for their finances in order to promote the efficient and effective use of budgetary resources pursuant to the provisions of section 68(2)(m) of the Public Finance Management Act, 2012.

JUDICIAL PERFORMANCE IMPROVEMENT PROJECT (IDA CREDIT NO. 5181 - KE)

236. Undelivered Motor vehicle

The project initially awarded a contract to CMC for supply of 13 motor vehicles on 02 April 2014 at a cost of Kshs 41,600,000 which was objected by the World Bank as CMC was not the lowest bidder. The contract was later awarded to Global Fleet Sales Company of Thailand, through competitive International Tender, for supply of thirteen (13) Ford Everest 4x4 vehicle vide tender Min. JTC/11/2013/14 of 2 April 2014 at a cost of US$.425,800 (equivalent Kshs.36,234,125). The cost excluded custom duty and other taxes. The delivery period was three months after payment of 90 percent costs. However, at the time of the audit, only 9 vehicles had been delivered after a payment of Kshs 66,891,600.55.

The delay in delivery of the above vehicles occasioned ineligible penalties of Kshs.20,645,562 as per the Invoice No.GFSHF14-0100F which had not been paid at the close of the year and the Project is likely to incur more costs if the remaining vehicles are not delivered. It is not clear why due diligence was not carried out by the Judiciary to avoid unnecessary costs to the taxpayer.

In the circumstances, the propriety of the ineligible penalties of Kshs. 20, 645,562 and the cost of the undelivered four vehicles could not be confirmed as at 30 June 2015.

Submission by Accounting Officer

The Accounting officer admitted that it was true that at the time of the audit only 9 vehicles had been delivered to the Judiciary. However, the four vehicles that had not been delivered have since been delivered, inspected and are now in use. Attached, please find the inspection and acceptance certificate.

She also noted that the delay in the delivery of the vehicles to the Judiciary was due to delay in clearing the vehicles from the inland container depot due to various reasons outlined below:

The Judiciary requested for an exchequer of USD 2,350,100 via letter ref CRJ 14/11 dated 8th January, 2015. The funds were eventually transferred into the Project Account on 10th March 2015.

The Project paid duty on 13 March 2015. After paying the import duty, it was realized that there was a penalty totaling US$126,101.92 (approximately KShs.12,803,758.40 at KShs.101.535/$) payable to shipping line US$47,610; KPA US$71,415; and KRA US$7,076.92. The project immediately sought waiver of the penalties from KRA, KPA and the Shipping line. However, no waiver was given and the Judiciary decided to pay the penalties in July, 2015, to avoid further accumulation of penalties.

The Judiciary carried out due diligence in the procurement process of the vehicles and procured them at a lower price, from Thailand, compared to the prevailing price locally. The delays were not within the control of the Judiciary. We received the information one month after the arrival of the vehicles. In addition, the National Treasury delayed to release funds to the Judiciary to facilitate payment of import duty. Finally, KRA and KPA did not respond to the request for waiver of penalties.

The clearing agent billed The Judiciary for the penalties in August, 2015 and the penalties have since been paid and all the vehicles delivered.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the ineligible penalties of Kshs. 20, 645,562 were paid as a result of late release of exchequer of the National Treasury and compounded by the fact that KRA, KPA and shipping line imposed penalties associated with the importation of nine vehicles was reasonable.**
2. **All thirteen vehicles have been delivered.**
3. **The Committee marked the matter as resolved.**

Committee Recommendations

1. **Accounting Officers must ensure that ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring goods and services and that, in the case of goods, adequate arrangements are mad for their custody, safeguarding and maintenance pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2. **Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets inaway which ensures that thenational 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.**

16.0. ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) FINANCIAL STATEMENTS FOR VOTE 122

Unqualified Opinion

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

17.0. NATIONAL INTELLIGENCE SERVICE

FINANCIAL STATEMENT FOR VOTE 123

Maj. Gen. (Rtd) Phillip Kameru, the Accounting Officer National Intelligence Service appeared before the Committee on 22nd September, 2016, to adduce evidence on the audited Financial Statements of Vote 123 National Intelligence Service for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Baisis for Qualified Opinion

237. Un-Cleared Agency Account Balance

The Service has not explained why the agency accounts balance (MFA) amounting to Kshs.43, 666,962.00 brought forward from prior period has remained outstanding as at 30th June, 2015 as shown at note 13 to the financial statements.

Committee Observations and Findings

237. Un-Cleared Agency Account Balance

The Service has not explained why the agency accounts balance (MFA) amounting to Kshs.43, 666,962.00 brought forward from prior period has remained outstanding as at 30th June, 2015 as shown at note 13 to the financial statements.

Committee Observations and Findings

1. **The Auditor General informed the Committee that the explanation had been submitted and the matter had been resolved.**
2. **The Committee marked the matter as resolved.**

18.0. OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

FINANCIAL STATEMENTS FOR VOTE 124

Mr. Keriako Tobiko the Accounting Officer Office of the Public Prosecutions appeared before the Committee on 1st December, 2016, accompanied by Mr. Jacob Ondari; Deputy DPP, Mr. Nicholas Mutuku; Deputy DPP, Ms. Hilda Karia; Assnt. Director Supply Chain Services, Mr. Walter Oselu; Chief Finance Officer, Ms. Rose Baraza; Accountant to adduce evidence on the audited Financial Statements of Vote 124 Office of the Director of Public Prosecutions for the Financial Year 2014/2015. The minutes of the committee's Sittings and the submissions tabled by the accounting officer are annexed to this report.

238. Increasing Pending Bills

The office has pending bills of Kshs.26, 473,752.95 (2014: Kshs.1, 196,404) as at 30 June 2015 against a deficit of Kshs.6, 847,139(2014:Kshs.5, 593,752). Service sustainability will be threatened if this trend continues into the future. My opinion is not qualified in respect to this matter.

Submission by the Accounting Officer

The matter was resolved as the pending bills had been cleared.

Committee Observation and Finding

The Committee noted the submissions of the Accounting Officer and the matter was marked as resolved.

Committee Recommendations

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) of the Constitution and section 81 (4)(a) of the Public Finance Management Act 2012 .

19.0. COMMISSION FOR IMPLEMENTATION OF THE CONSTITUTION FINANCIAL STATEMENTS FOR VOTE 125

Mr. Njee Muturi, CBS, the Solicitor General appeared before the committee accompanied by Ms. Bernice Gachegu; Registrar General, Mr. F.G.K. Masha; Ag. Director, Governance, Justice, Law & Order Sector, Ms. Eunice Sawe; Public Trustee, Ms. Leah Kimemia; Principal Accountant, Mr. Jacob Munge; Chief Finance Officer, Mr. Diaz Muasya; Chief Accountant, Mr. T.N. Miiri; Senior Accountant, Mr. Richard Miginjo; Senior Finance Officer, Mr. J.M. Kieni; Supply Chain Manager, Mr. Evans Ombiro; Accounts Assistant on 6th April, 2017 to adduce evidence on the audited Financial Statements of Vote 125 Commission for Implementation of the Constitution for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

239. Unauthorized Excess Vote

The Commission's statement of receipts and payments reflects expenditure amounting to Kshs.349, 780,096 compared to an approved budget of Kshs.306, 000,000. No evidence was availed to support the approval of the over-expenditure by the National Assembly.

As a result the Commission had an unauthorized excess vote of Kshs.43, 780,096.00 as at 30 June 2015.

Submission by the Accounting Officer

The Commission statement on receipts reflects excess to an excess Vote of Ksh.43, 780,096.00. The Commission did not request for the approval because the money came direct from UNDP. The agreement was signed by Treasury, Commission and the Donor. The Commission would like to confirm that the expenditure was incurred in accordance with the Government regulations. The expenditure was also audited by external auditors appointed by UNDP and the Commission was issued with a clean bill of health.

Committee Observations and Findings

1. **The explanation of the Accounting Officer that the Commission did not request for the approval because the money came direct from UNDP was not satisfactory for the reason elucidated within this paragraph. The agreement was signed by Treasury, Commission and the Donor, thereby making the funds public monies under Regulation 74(1) of the Public Finance Management (National Government) Regulations (2015). Further, Regulation 73(2) provides that all grants and donations shall be appropriated by National Assembly before commencement of disbursements. Accordingly, the Committee observed that the funds were not appropriated by the National Assembly contrary to regulation 74(2) of the Public**

Finance Management (National Government) Regulations (2015) and the expenditure was not incurred in accordance with the Government regulations

2. **The Accounting Officer during the period under review was secretary to the Commission, Joseph. N. Kosure.**
3. **The matter relating to the Unauthorized Excess Vote remains unresolved.**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should invoke power assigned under section 13(1)(d) of the Public Finance Management, 2012 to compel Joseph. N. Kosure to provide within three months after adoption of this report, the basis for making a payment totaling Kshs 5,291,190 used for the purported procurement of advertising and flowers.**
2. **Where there is no satisfactory explanation provided to the CS National Treasury and Auditor General within the stipulated time, Joseph. N. Kosure should be investigated with a view to prosecute for financial misconduct relating to incurring expenditure on behalf of that entity without lawful authority contrary to section 197(1) (h) of the Public Finance Management Act, 2012.**
3. **The EACC and the DCI are directed to carry out an investigation relating to the payment totaling Kshs 5,291,190 used for the purported procurement of advertising and flowers with a view to establishing whether there was a breach of law and initiating prosecution against any person found culpable.**

240. Cash and Cash Equivalents

240.1 Long Outstanding Items in Bank Reconciliation Statements

Examination of the bank statements and bank reconciliation statements revealed unexplained and unresolved long outstanding items as follows:

Item	Central Bank of Kenya (Kshs)	KCB A/C (Kshs)
1.	Payment in cashbook not in bank	11,192,330 3,464,548
2.	Payment in Bank not in cash book	4,609,233 2,423,137
3.	Receipts in cashbook not in Bank	10,001,113 2,903,479

Consequently, the cash and cash equivalents balance of Kshs.6, 806,944, could not be confirmed.

Submission by the Accounting Officer

The Auditor General confirmed that this matter had been resolved as reconciliations had been done.

Committee Observation and Finding

The Committee noted the submissions of the Accounting Officer and the matter was marked as resolved.

Committee Recommendation

Accounting officers must ensure that they submit the financial statements not later than three months after the end of each financial year to the Auditor-General pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

241. Previous Year's Issues

241.1 Outstanding Imprests and Advances

The statement of assets reflects an outstanding imprest balance of Kshs.32, 941,671.00 as at 30 June 2014. However, records as at 20 January 2015 reflected a balance of Kshs.11, 235,309.00 which remained outstanding beyond the due dates.

No reason has been provided for the failure by the Commission to have the imprests recovered from the salaries of the imprest holders. Considering that the Commission's term comes to an end by 31 December 2015, these imprests may prove difficult to recover within the remaining period.

Committee Findings and Observations

1. **The Accounting Officer had submitted documents relating to Kshs.11, 235,309.00 for audit review and verification.**
2. **The matter was marked as resolved.**

Committee Recommendation

Accounting officers must ensure that they adhere to the provisions guiding the management of imprest under regulation 93 of the Public Finance Management Act, 2012.

241.2 Fraudulent Procurement of Goods and Services

The statement of receipts and payments as at 30 June 2014 reflects expenditure of Kshs.232,015,419.00 under use of goods and services which includes expenditure of Kshs.44,170,578.00 in respect of printing advertising and information supplies and services. The audit revealed that during the year under review, the Commission paid Kshs.9,200,000.00 to a supplier vide payment voucher No.1104 dated 22 April 2014 of Kshs.6,000,000.00 and payment voucher No.1288 of Kshs.3,200,000.00 for purported newspaper supplements, video, photography and media mobilization. These payments were made despite the following noted irregularities.

1. The Local service Order (L.S.O.) No.088968 that was used to pay Kshs.6, 000,000.00 did not belong to the Commission.

2. There was no evidence of the method of procurement followed by the Commission or that of the tender committee sanctioning the procurement process.
3. The payment voucher No.1288 and supporting documentation that were used to pay Kshs.3,200,000.00 were not availed for the audit review as the voucher was reported to be missing.

The Commission has however, indicated that the matter has since been reported to the Police Criminal Investigations Department (CID) for further investigation and recovery of Kshs.9,200,000.00 vide OB/43/12/2014. The recovery of Kshs.9, 200,000.00 had not materialized as at 30 June 2015.

Submission by the Accounting Officer

The matter was a recurring and was before the police for investigations.

Committee Observations and Finding

The Committee observed that the police had taken inordinately long to resolve the matter.

Committee Recommendations

1. **The Accounting Officer should institute measures to ensure that the agency always acts promptly on the Auditor General's management letters to forestall audit queries.**
2. **The DCI should conclude investigations of this matter expeditiously.**
3. **The National Treasury proposes a policy to wind up commissions because they often leave pending issues.**

20.0. OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

FINANCIAL STATEMENTS FOR VOTE 126

Ms. Lucy Ndungu, the Registrar of Political Parties and Accounting Officer appeared before the PAC Committee of the 11th Parliament accompanied by the following officers; Mr. Joel Onchwati-Principal Finance Officer, Mr. Douglas Wanzala-Senior Accountant and Ms. Veronicah Mwasia-Internal Auditor on 24th November, 2016 to adduce evidence on the audited Financial Statements of Vote 126 the Office of the Registrar of Political Parties for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

REGISTRAR OF POLITICAL PARTIES FUND

242. Unregistered Lease Agreement

The Office of Registrar of Political Parties entered into a lease agreement with I.C.E.A Lion General Insurance Company Limited, for the leasing of their new offices at Lion Place, Waiyaki Way, Nairobi, for a period of 6(six) years from 1 June 2013 to 30 June 2019.

It comprises of 7,798sqff of office space and 929sqff of storage space at a cost of Kshs.90 and Kshs.22.50 per square foot respectively. The office paid Kshs. 8,021,167 for the first quarter (1st July 2013-1st October 2013) and the lease transaction was finalized and signed accordingly. However, the lease agreement was not registered contrary to Section 54 of the Land Registration Act. Further, the security deposit of Kshs. 4,083,181 has not been disclosed in the financial statements.

In the circumstances, the validity and legality of the lease agreement could not be confirmed.

Submission by the Accounting Officer

The security deposit of Kshs. 4,083,181.00 was paid after consultations with the letting agent. Registration of the lease was ongoing and would be finalized soon**.**

Committee Observation and Finding

The Agency delayed in making a payment for a security deposit of Kshs. 4,083,181.00 which in turn led to the lag in registering the lease.

Committee Recommendation

The Registrar should follow up and effect the registration of the lease to regularize the lease with the Ministry of Lands.

21.0. WITNESS PROTECTION AGENCY

FINANCIAL STATEMENTS FOR VOTE 127

MS. Alice Onderia, the Accounting Officer for Vote 127, The Witness Protection Agency accompanied by Mr. John Mwangi; Finance Manager, Mr. Joel Omani; Head of Legal, Linit Odiero appeared before the Committee on 30th May 2018, to adduce evidence on the audited Financial Statements of Vote 127 the Witness Protection Agency for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Submission by the Accounting Officer

1. The commission obtained an unqualified opinion for both Financial Years 2014/15 and 2015/16.
2. The good work was attributed to staffers and Board that have been continuously working as a team
3. The board has put in place internal control system such as establishing Office of Internal Auditor, development of Standard Operating Manual and establish an Audit Committee in the Board

Committee Observation and Findings

The Committee commends the Director Witness Protection Agency for obtaining a qualified opinion for the two years.

22.0. MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

22.1. STATE DEPARTMENT OF INTERIOR

FINANCIAL STATEMENTS FOR VOTE 133

Dr. Eng. Karanja Kibicho, the Accounting Officer, State Department of Interior Vote 133, accompanied by Major (Rtd) Lio Kihalangwe; Principal Secretary Immigration, Mr. Josheph K. Boinnet; Inspector General of Police, Mr. George Kinoti; Director of Criminal Investigation, Mr. Rodgers M. Mbithi; Director National Police Service Air Wing, Ms. Loise Kibicho; AAG Immigration, Mr. Joseph Kiget, Director National Police Service; Mr. Dan Mwangi; PS Office Interior, Mr. Peter N. Mwita; National Police Service, Mr. Joseph P. Munywoki; Acting Director Immigration, Mr. Amos N. Gathecha; Secretary Internal Security, Mr. Reuben Kimotho; Director NILB, Mr. Elias Dulo; Procurement Officer, Mr. Mwinyi M.M., OGW, HSC; Director Logistics Administration Police, Mr. Charles Kimotho; Accountant Interior, Ms. Janet W. Muchemi; Director Civil Registration, Mr. W. Githui; Director IPR Services, Mr. Christopher Keter; CSCMO National Police Service; Mr. Benson Guthua; Director Interior appeared before the Committee on 11th May, 2018, to adduce. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Baisis for Qualified Opinion

243.Contract for Provision of Comprehensive Group Life Insurance Cover; Contract No. NPS/002/2014/2015

Review of availed documents revealed the following: 243.1 Irregular Award of Contract

Examination of an evaluation report for tender Number NPS/002/2014-2015 for the Provision of comprehensive group life insurance cover for National Police and Prisons Services revealed that the lowest evaluated bidder submitted a bid totaling Kshs.629, 019,316.00 while the contract was awarded to another bidder at Kshs.1, 747,209,700.00.

Further, examination of the report revealed that the lowest evaluated bidder was disqualified based on the following grounds: -

(i) Form of tender was not duly completed and that the format of the form of tender had been violated by not stating the capacity of the signatory.

(ii) The bid document required that the person signing the form of tender indicates his/her capacity in the organization. However, the form of tender for the firm was signed on behalf of the Sales Manager Group Life and Pension and did not indicate his/her name and capacity in the organization. Although Section 64(2)(b) of the Public Procurement and Disposal Act, 2005 allows for corrections of errors or oversights that do not affect the substance of the tender, the lowest bidder was disqualified without being given a chance to correct the error.

In addition, the basis upon which the lowest bidder was disqualified is not among mandatory requirements in the preliminary evaluation contrary to Section 66 (2) of Public Procurement and Disposal Act, 2005 which prohibits introduction of a new criterion during evaluation and comparison of tenders.

Audit has also established that it was mandatory that 2 percent of tender security on the quoted tender amount be guaranteed. However, this requirement was waived in respect of the awarded firm as a guarantee of Kshs.32, 940,252.00 issued by a bank on 26 May 2014 was accepted instead of Kshs.34, 944,194.00.

In an effort to defeat audit trail, an unsigned Bank guarantee amounting to Kshs.3, 000,000.00 was issued by another Bank on 28 May 2014 to cover the shortfall amounting to Kshs.2, 003,942.00. No reason has been given for the omission.

Submission by Accounting Officer

The accounting officer submitted that the ministry awarded tender Number NPS/002/2014-2015 for the Provision of comprehensive group life insurance cover for National Police and Prisons Services at Kshs.1, 747,209,700.00.

The Procuring Entity complied with the Public Procurement and Disposal Act 2005 in the award of the above tender. The tender was awarded to the lowest evaluated bidder in accordance with Section 66(2) "which states that the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and no other criteria shall be used."

The Procuring Entity stipulated the requirements of the tender which included, a duly completed, signed and stamped form of tender among others. Section 64(1) of the Act stipulates that a tender is responsive if it conforms to all the mandatory requirements in the tender documents.

The lowest priced bidder, British American Insurance Company (K) Ltd. was found not to be responsive in accordance with Section 64(1) of the Act as the Form of tender was not duly completed as required, as the capacity in the organization and the name had not been indicated.

In public procurement practice, this is always a serious omission hence the bid was disqualified as non-responsive since without a duly completed, signed and stamped form of tender, there was no valid bid. Although this bid had the lowest priced bid, this was not the lowest evaluated bid in accordance with Section 64(1) of the Act, to be awarded the contract

It was important to note that although Section 64(2) (b) of the Act allowed for corrections of errors or oversight, that do not affect the substance of the tender, failure to duly complete, sign and stamp form of tender is not a minor deviation, as this was stipulated to be mandatory in accordance with Section 64(1) stated above.

The Procuring Entity did not waive the mandatory 2 percent tender security as the successful bidder submitted tender security of Kshs.32, 940,252.00 from Bank of Africa and another one of Kshs. 3,000,000.00 from Chase Bank, both were properly signed. It is important to note that the purpose of the tender security was to ensure the successful bidder signed the contract; the attached tender security protected the ministry to ensure this happened**.**

Committee Observations and Findings

1. T**he tender was awarded to the lowest evaluated bidder in accordance with Section 66(2) "which states that the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and no other criteria shall be used.**
2. **The Procuring Entity stipulated the requirements of the tender which included, a duly completed, signed and stamped form of tender among others.**
3. **Section 64(1) of the Public Procurement and Disposal Act 2005 stipulates that a tender is responsive if it conforms to all the mandatory requirements in the tender documents.**
4. **The lowest priced bidder, British American Insurance Company (K) Ltd. was purportedly found not to be responsive in accordance with Section 64(1) of the Act as the Form of tender was not duly completed as required, as the capacity in the organization and the name had not been indicated.**
5. **The Procuring Entity did not waive the mandatory 2 percent tender security as the successful bidder submitted tender security of Kshs.32, 940,252.00 from Bank of Africa and another one of Kshs. 3,000,000.00 from Chase Bank, both were properly signed. It is important to note that the purpose of the tender security was to ensure the successful bidder signed the contract; the attached tender security protected the ministry to ensure this happened.**
6. **The State Department of Interior did not submit minutes of the meeting of the Ministerial Tender Committee in support of its submission for award for audit review or verification.**
7. **The Committee was not able to verify that the award of the contract for provision of Comprehensive Group Life Insurance Cover complied with section 64(1) of the Public Procurement and Disposal Act 2005**

Committee Recommendations

1. **EACC and DCI should investigate the entire procurement process of the contract for provison of comprehensive group life allow for prosecution if evidence permits insurance cover; contract no. NPS/002/2014-2015 worth Kshs.1, 747,209,700.00 with a view to establishing wheater there was a breach of the procurement laws and allow for prosecution, if evidence permits.**

2. **The Accouting Officer during the year under review, Amb. Dr. Monica Juma, should be reprimanded for introducing a new criterion during evaluation and comparison of tenders and proceeding to cancel the tender for lowest bid contrary Section 66 (2) of Public Procurement and Disposal Act, 2005 and section 74 (4) (a) of the Public Finance Management Act, 2012.**

243.2 Irregular Letter of Acceptance

Although, the awarded Company purports to have issued unreferenced Letter of Acceptance dated 7th June 2014, its validity and legality could not be confirmed as it was referring to Notification of Award Letter which was dated 30th June 2014.

Submission by Accounting Officer

It was true that the bidder erroneously issued the acceptance letter dated 7th June 2014 instead of 7th July 2014. The bidder however acknowledged there was a mistake in their letter dated 17th July 2014.

Committee Observation and Finding

The matter was marked as resolved

Committee Recommendation

The Accounting Officer must at all times ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

243.3 Notification of Award and Contract Document

Although, Notification of Award Ref. No. NPS/IG/C/C/GEN/41 Vol. 1 (48) dated 30 June 2014 was issued to the firm, contract number NPS/002/2014-2015 for Provision of Comprehensive Group Life Insurance Cover for National Police and Kenya Prisons Service Staff was hurriedly signed on 1 July 2015 between the Accounting Officer and the firm for a period of two (2) years contrary to Section 68(2) of the Public Procurement and Disposal Act, 2005 that requires a contract to be signed fourteen (14) days after Notification.

Submission by Accounting Officer

The accounting officer submitted that the contract number NPS/002/2014-2015 for provision of Comprehensive Group Life Insurance Cover for National Police and Kenya Prisons Service Staff signed on 1 July 2015 between the Accounting Officer and the firm for a period of two (2) years the Contract had to be effective from 1st July, 2014, since the NHIF Insurance Cover had been terminated, to avoid a lacuna for the National Police Service and the Kenya Prisons Service Group Insurance. The Procuring Entity had to sign the contract promptly as this was an urgent need for services in circumstances where there was imminent or actual threat to public health, such that engaging in tendering proceedings or other procurement methods would not be practicable.

The client would be left exposed if this contract was not signed promptly.

This was supported by Section 74 of the Act.

Committee Observations and Findings

1. **The contract for provision of Comprehensive Group Life Insurance Cover for National Police and Kenya Prisons Service Staff signed on 1st July 2015 between the Accounting Officer and the firm for a period of two (2) years the Contract had to be effective from 1st July, 2014, since the NHIF Insurance Cover had been terminated, to avoid a lacuna for the National Police Service and the Kenya Prisons Service Group Insurance.**
2. **The Procuring Entity had to sign the contract promptly as this was an urgent need for services in circumstances where there was imminent or actual threat to public health, such that engaging in tendering proceedings or other procurement methods would not be practicable. The client would be left exposed if this contract was not signed promptly.**
3. **Section 74(3) of Public Procurement and Disposal Act, 2005 provides that procuring entity may use direct procurement if the following are satisfied—**
   - **(a) There is an urgent need for the goods, works or services being procured;**
   - **(b) Because of the urgency the other available methods of procurement are impractical; and**
   - **(c) 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.**
4. **The explanation tabled did not demonstrate the "urgency" in accordance with the provisions of section 73 (3) of Public Procurement and Disposal Act, 2005.**
5. **Contract number NPS/002/2014-2015 for Provision of Comprehensive Group Life Insurance Cover for National Police and Kenya Prisons Service Staff was hurriedly signed on 1 July 2015 between the Accounting Officer and the firm for a period of two (2) years contrary to Section 68(2) of the Public Procurement and Disposal Act, 2005 that requires a contract to be signed fourteen (14) days after Notification.**

Committee recommendations

Much as provision of Comprehensive Group Life Insurance Cover for National Police and Kenya Prisons Service Staff was particularly required, the Accounting Officer erred and did not adhere to the provisions of the Public Procurement and Disposal Act, 2005. She should, therefore, be investigated with a view to being prosecuted, if found culpable.

243.4 Performance Bond

Although, the firm submitted a Performance bond Ref. No. 001LBG010414 dated 17 July

2014 amounting to Kshs.174,720,970.00 to Office of the Inspector General in accordance with clause 7 of the contract, a Performance Bond is a crucial component of contract document signed on 1 July 2015.

Submission by Accounting Officer

The accounting officer submitted that the performance bond Ref. No. 001LBG010414 dated 17 July 2014 amounting to Kshs.174, 720,970.00 was issued to the office of the Inspector General of Police belatedly due to the fact that the service required the cover to commence on 1st July 2014 in view of termination of NHIF cover. Based on these circumstances, the insurance cover was going to last for 12 months and the only lapse was 20 days; the risk to the Ministry was not significant.

The purpose of the performance security was to ensure that the service provider performed in accordance with the provisions of the contract. The Ministry was able to achieve this.

Committee Observations and Findings

The performance bond Ref. No. 001LBG010414 dated 17 July 2014 amounting to Kshs.174, 720,970.00 was issued to the office of the Inspector General of Police albeit belatedly. The matter was marked as resolved.

Committee Recommendation

That the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

243.5 Nature and Scope of the Comprehensive Group Life Insurance Cover

Examination of the Group Life Insurance Cover has revealed that the scope included but notlimited to the following: -

(i) If an employee dies or suffers permanent and total disability defined in the policy document resulting from natural causes, the beneficiaries are entitled to a lump sum of 5 years basic salary.

(ii) If an employee dies as a result of accidental and / or occupational causes, the beneficiaries are entitled to a lump sum payment of 8 years basic salary.

(iii) If an employee suffers permanent and total disability from accidental and / or occupational causes, the employee shall be entitled to a lump sum payment of 8 years basic salary.

(iv) Cover for funeral expense is Kshs.150, 000.00 per employee to be settled within 24 hours on receipt of burial permit.

(v) The policy has no exclusion whatsoever in respect of any cause of death.

However, examination of minutes of a meeting held on 30 June 2015 in which the renewal of the group life insurance cover was discussed, members were in agreement that renewal and payment must be based on satisfaction of the customer (National Police and Kenya Prison Services). In this regard therefore, an assessment of the contract based on the nature and scope of the contract detailing the number of police and Prison officers, their monthly basic salaries and the lump sum paid by the applicant seeking renewal, was not done. In addition, details of officers whose benefits are included in Article 3 of the contract as free cover limit amounting to Kshs.20,000,000.00 have not been defined or disclosed.

Submission by Accounting Officer

Renewal was to be based on satisfaction by the National Police Service and Kenya Prisons Service. In meetings held prior to the renewal, National Police Service and Kenya Prisons Services officers expressed satisfaction with the performance of the service provider. Attached are letters from the users expressing their satisfaction.

243.6 Payment Vouchers

Record of Payments show that the purported winner has been paid Kshs.3,494,419,400.00 in two (2) consecutive years;

Date	PV No.	Amount (Kshs.)
19.09.2014	382	1,600,000,000.00
23.03.2015	391	147,209,700.00
23.10.2015	528	1,747,209,700.00
Total		**3,494,419,400.00**

However, the Ministry has not availed Payment Voucher Number 391 for Kshs.147,209,700.00 and assessment report, the basis upon which I can evaluate and confirm that Kshs.3,494,419,400.00 so far paid is commensurate with contracted services offered and that the value for money has been realized in accordance with section 68(1) of the Public Financial Management Act, 2012.

A request for tender documents among other documents through letter Ref. NS/MICNG/INSP/2014-2015 (9) dated 7 August 2015, however, the same were not submitted for audit review.

In view of the foregoing, I am not able to confirm that the payment of Kshs.3,494,419,400.00 was lawful and effective as required under Article 229 (6) of the Constitution.

Submission by Accounting Officer

The accounting officer submitted that the insurance company was paid Kshs.3, 494,419,400.00 in two (2) consecutive years as per the breakdown below;

Date	PV No.	Amount (Kshs.)
19.09.2014	382	1,600,000,000.00
23.03.2015	391	147,209,700.00
23.10.2015	528	1,747,209,700.00
Total		**3,494,419,400.00**

The Payment Voucher Number 391 of Kshs.147, 209,700.00 so far paid is attached (**Annex 7)**

Committee Observations and Findings

The matter was marked as resolved

Committee Recommendation

That the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

244. Supply and Delivery of Communication Equipment and Accessories at Administration Police Service – Kshs.370, 879,500.00

244.1 Award of Contract

Examination of contract records revealed that the tender for the Supply and Delivery of Communication Equipment and Accessories was advertised on 25 May 2012 for the purchase of assorted items. Thirty-two (32) bidders bought tender documents out of which sixteen (16) returned the same for evaluation. Evaluation of tender reveals that eight (8) firms were responsive and their brochures were forwarded to Kenya Civil Aviation Authority for analysis. However, the listed mandate of Kenya Civil Aviation Authority (KCAA) is to support air transport operations in the country which has no relevance to the procured items, therefore, the justification for submitting brochures and not samples to Kenya Civil Aviation Authority for analysis of communication equipment has not been explained.

In addition, the Analysis Report from (KCAA) has not been availed for audit verification contrary to Section 37 of the Public Audit Act, 2003.

Submissions by Accounting Officer

The accounting officer admitted that tender for the Supply and Delivery of Communication Equipment and Accessories was advertised on 25 May 2012 for the purchase of assorted items were forwarded to Kenya Civil Aviation Authority for analysis.

The reason for forwarding brochures to KCAA for technical analysis is because of lack of qualified expertise in this area in the Administration Police Service (APS). If APS had the required expertise, the analysis would be done internally.

KCAA mandate is to support Air transport operations in the country. This is a task that requires use of communication equipment both base station radios and hand held radios. Considering the number of years KCAA has been performing this function, it has a good human resource capacity in terms of electronic engineers that are qualified to do technical evaluation of radio equipment.

KCAA is also a Government Institution neighboring our operation communication centre based at Administration Police Training College Embakasi. The technical specifications for all the items in this tender were developed by KCAA on our request. KCAA has carried for us technical evaluation for communication equipment and accessories for several years in the past with no charges levied to the Ministry. The decision to have KCAA to do this part of evaluation was not with any hidden agenda as the information was given in tender document page 28 special conditions of contract clause 14 which stated "Tenderers should note that only those bids that will pass preliminary examination will be forwarded to KCAA for technical evaluation of the equipment .

It was also justifiable to forward brochures and NOT samples to KCAA for technical analysis because that was the tender requirement (Special conditions of contract page 28 clause 13 which stated "Tenderers must submit a brochure for each item quoted for").

A report from KCAA giving reasons as to why the firms were disqualified was availed and is available for audit verification.

Committee Observation and Finding

The matter was marked as resolved

Committee Recommendation

That the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

244.2 Relationship of Awarded Firms

The contract was awarded on the basis of Framework Contracting where goods and services are procured on need basis to four (4) firms.

An evaluation of the Confidential Business Questionnaire reveals that two (2) firms share physical address at 5th Avenue Office Suite located on plot number 209/2/2 on Ng'ong Road.

A further analysis shows that Kshs.259, 759,500.00 or 70 percent of the total expenditure incurred on these items amounting to Kshs.370, 879,500.00 has been paid to the two related companies.

Submission by Accounting Officer

The accounting officer admitted that the contract was awarded on the basis of Framework Contracting where goods and services are procured on need basis from four (4) firms.

Tender No. APHQS/21/2012-2014; for supply and delivery of communication equipment and accessories was an open tender which was advertised on 25th May, 2012 in the local daily newspapers. The tender was open to local suppliers where the bidder expresses interest by buying the tender document and submitting it back. It was not a breach of any law for bidders to have the same physical addresses. The procuring entity could not disqualify any bidder because of having the same address, as this would be contrary to Section 36(1) of the Act.

Committee Observation and Finding

The matter was marked as resolved

Committee Recommendation

That the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

244.3 Loss of Kshs.113, 234,000.00

Audit has further revealed a loss of Kshs.113, 234,000.00 resulting from the purchase of the items from the two (2) related companies instead of the lowest evaluated bidder.

Submission by Accounting Officer

The accounting officer submitted that there was no loss of funds resulting from the purchase as award in line with the special conditions set forth in the tender documents. The award was based on the most technically responsive bidder based on Section of the and not necessarily the lowest in price.

Tender No. APHQS/21/2012-2014; for supply and delivery of communication equipment and accessories was an open tender which was advertised on 25th May, 2012 on the local daily newspapers. The tender was open to any local bidder who was interested. The bidder expressed interest by buying the tender document and submitting it back.

All the firms who responded were subjected to a thorough technical evaluation process and only the technically responsive bidder was considered for award in each item.

Committee Observation and Finding

The Accounting Officer did not table any evidence to demonstrate that there was no loss of Kshs.113, 234,000.00 resulting from the purchase of the items from the two (2) related companies instead of the lowest evaluated bidder.

Committee Recommendation

The Accounting officer and the Ministerial Tender Committee should be investigatedby the EACC and the DCI with a view establishing whether there was a breach of the procurement laws and allow for prosecution if evidence permits.

244.4 Use of Expired Contracts

Audit has also revealed that contracts used expired on 30 June 2014 contrary to PPOA Circular Number 6/2010 on guidelines for frame work contracting which requires that they should not exceed two years. There is an indication that the procurement process was not fair, equitable, transparent, competitive and cost effective as required by Article 227(1) of the Constitution of Kenya, (2010).

Submission by Accounting Officer

The accounting officer stated that the procurement process was fair, equitable, transparent, competitive and cost effective as required by Article 227(1) of the Constitution of Kenya 2010.The contract was utilized within the contract period and within the extended periods as approved by the Ministerial Tender Committee in accordance with Section 85 of the Act. The use of the contract was above board and done with the security interest of the nation in consideration and in conformity with requirements of procurement procedures. The extension were done in good faith and taking into account the security threats in the country.

Committee Observation and Finding

The Accounting Officer did not table a compelling explanation to demonstrate that the use of the expired contract was legal and done with the security interest of the nation in consideration and in conformity with requirements of procurement procedures laid sout under section 83 of the Public Procurement and Disposal Act, 2005 and the procurement process was fair, equitable, transparent, competitive and cost effective as required by Article 227(1) of the Constitution of Kenya 2010.

245. Human Resource Records

245.1 The financial statements under summary statement of receipts and payments

Reflect under compensation of employees an amount totaling Kshs.54,500,751,000.00 which differs with the payroll summaries obtained from IPPD system for State Department for Interior that reflect expenditure totaling Kshs.50,252,055,914.70 incurred on salaries and other allowances during the year under review, with a resulting difference of Kshs.4,248,695,523.30.

The summary statement of receipts and payments reflect compensation of employees' amounts to **Kshs. 54,500,751,000** while payroll summaries form IPPD system amounts to **Kshs. 50,252,055,914.70** thus resulting to a difference of **Kshs. 4,248,695,523**.

Submission by Accounting Officer

The amount over and above IPPD data captures is the payments done outside the payroll by vouchers, these payments include: -

i. Service gratuity to officers employed on contract.
ii. Promotions arrears to officers who are deceased.
iii. Salary arrears to officers who have been dismissed.
iv. Underpayment arrears to the deceased.
v. Underpayment arrears to officers who have retired.
vi. Overtime allowance to officers at Government Press, telephone exchange and officers at Headquarters.
vii. Stipends to police recruits.
viii. Salary arrears to officers who have been upgraded posthumously.
ix. Payments to casual workers.
x. Payment of alimentary allowances to officers on interdiction whose salary has been stopped.

The difference of Kshs 4,248,695,523.00 was analysed and submitted to the Committee for verification.

Committee Observation and Finding

The matter was marked as resolved

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

245.2 Records maintained at National Police Service (NPS) Headquarters indicate that the National Police Service Commission in a letter dated 1 September 2015 directed the Inspector General of Police to effect promotion of sixty four (64) civilian staff serving in the Ministry of Interior and Coordination of National Government contrary to provisions of Paragraph 15 and 16 of the Treasury circular letter Ref. No: 8/2015 dated 10 June 2015.

Submission by Accounting Officer

IThe accounting officer admitted that it was true that National Police Service Commission in a letter dated 1 September 2015 directed the Inspector General of Police to effect promotion of sixty four (64) civilian staff

serving in the National Police Service.

The Commission is a body corporate established under Article 246 of the Constitution and enacted through an Act of Parliament No. 30 of 2011. The mandate of the Commission as provided for under Article 246(3) is as follows;

a. Recruit and appoint persons to hold or act in offices in the service, confirm appointments and determine promotions and transfers within the National Police Service.

b. Observing due process, exercise disciplinary control over and remove persons holding or acting in offices within the services; and

c. Perform any other functions prescribed by national legislation.

Other functions of the Commission as provided in the National Police Service Commission (NPSC) Act 2011 include:-

a. Appointment of staff – Section 17 (1) mandates the commission to appoint such officers and staff as may be necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine, taking into account gender, county and ethnic balancing.

b. Section 10 (1) (e) mandates the Commission to provide for the terms and conditions of service and the procedure for recruitment and disciplinary measures for the civilian members of the service.

c. Section 7 (1) of the NPS Act provides that "All persons who were immediately before the commencement of this Act, officers or employees of the Kenya Police Force and the Administration Police Act respectively, including officers working with the Criminal Investigations Department shall upon commencement of this Act become members of the service in accordance with the Constitution and this Act.

d. Process/procedure of approval by the Board of NPS promotion cases.

It was also true that the Commission issued letter Ref No. NPSC/1/28/1/VOL.1/74 dated 1st September 2015 conveying the promotion of various civilian staff members of the service following the Board approval in the meeting of 27th August 2015.

The above Board approval was arrived at following the recommendations by the committee that is charged with the recruitment, appointments and promotions of the members of the service. The procedure is that this Committee receives recommendations from the service in respect of recruitment, appointments and promotions and deliberates on each and every case after which recommendations is made to the full Board for approval or direction. The Service when making recommendations confirms availability of vacancies, seniority of the officers being recommended and confirms availability of budget.

He noted that in this particular case the Service confirmed that the officers recommended were the senior most and majority of them apart from having met all the minimum requirements of their various schemes of service had actually stagnated in the positions they were holding for more than five (5) years.

Committee Observations and Findings

1. **The National Police Service Commission is an independent constitutional body and a body corporate established under Article 246 of the Constitution and enacted through an Act of Parliament No. 30 of 2011.**
2. **The mandate of the Commission as provided for under Article 246(3) includes Recruit and appoint persons to hold or act in offices in the service, confirm appointments and determine promotions and transfers within the National Police Service.**
3. **The Commission issued letter Ref No. NPSC/1/28/1/VOL.1/74 dated 1st September 2015 conveying the promotion of various civilian staff members of the service following the Board approval in the meeting of August 27th 2015.**
4. **The officers were promoted lawfully within the structure of the National Police Service.**
5. **The query stands resolved.**

Committee Recommendation

That the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

245.3 Information available indicates that the Commission has to date not issued terms andConditions and Scheme of Service for civilian staff at National Police Service. It is therefore, evident that the use of Public Service terms and scheme instead of National Police Service Commission's terms and conditions were utilized without authorization of Principal Secretary contrary to Section E.4 (1) and (2) of the Code of Regulations (2006).

Further, the above vacant posts were not advertised for interested staff to apply,appraised, interviewed and promoted as required under Section E.26 and E.27 (1) and (2) ofthe Code of Regulations (2006). In addition, there was no budgetary provision for the promotion of sixty four (64) members of staff in the Ministry's budget. Consequently, the transparency, fairness and equity in these promotions could not be ascertained.

Submission by Accounting Officer

The accounting officer admitted that the Commission has not issued any terms and conditions of service nor schemes of Service to the Civilian staff of the National Police Service. As you are aware this Commission was created under the new constitution and became operational in October 2012 and therefore is in the process of developing its own systems and structures as required by law. Developing systems and structures is not a one day's event but it's a process that takes time and calls for a lot of stakeholders' consultations and resources. However, all the same it's worth noting that so far the Commission has been able to develop the following regulations to guide in the management of the uniformed personnel of the service.

(i) Recruitment and appointment regulations

(ii) Discipline and transfer regulations

(iii) Promotions regulations

(iv) Police vetting regulations

Committee Observation and Finding

With respect to paragraph 245 relating to Conditions and Scheme of Service for civilian staff at National Police Service, the Commission has not issued any terms and conditions of service nor schemes of Service to the Civilian staff of the National Police Service.

Committee Recommendation

The Commission must within three months after the adoption of this report issue terms and conditions of services for the Civilian Staff of the national Police Service in accordance with the Section 53 of the Public Service Commission Act No. 10 of 2017.

246. Accountability of Visa Stickers and Passports

246.1 Visa Stickers

Examination of registers maintained at Department of Immigration show that Visa Stickers worth Kshs.2,728,302,000.00 were issued to the Ministry of Foreign Affairs and International Trade during the financial 2013/2014 and 2014/2015. It was observed that 39,900 blank passports valued at Kshs.202,500,000.00 were issued to five (5) consulate missions and 13,872 printed passports valued at Kshs.65,988,000.00 to foreign missions/embassies. In these circumstances, total revenue collected excluding certificate of good conduct, Identity cards and others of Ksh.2,996,790,000.00 differs with the Kshs.1,524,300,362.00 reflected in the financial statements for 2013/2014 and 2014/2015. The resultant difference of Kshs.1, 472,489,638.00, a loss has not been accounted for.

Submission by Accounting Officer

The accounting officer admitted that to state that the Ministry of Interior and Coordination of National Government (Department of Immigration Services) procures visa stickers for use at the entry points in the country and in foreign missions. The visa stickers used in the missions are issued to the Ministry of Foreign Affairs upon requisition who in turn issue the same to Kenyan missions abroad for use.

It was true that the department of immigration issued visa stickers and passports to the ministry of foreign affairs as shown below during the financial years 2013/2014 and 2014/2015:

	Kshs.
Visa stickers	2,728,302,000.00
Blank passports	202,500,000.00
Printed passports	65,988,000.00
Total	**2,996,790.000.00**

The Accounting Officer clarified that all the receipts received for services rendered by the missions abroad and paid for (including issuance of visas and passports amongst others) are accounted for at the Ministry of Foreign Affairs . This is the reason why the estimate books clearly indicate that the ministry of Foreign Affairs has a provision for the Appropriation In Aid (A.I.A).

In view of the above the Kshs. 2,996,790,000.00 ought to have been reported and accounted for as A.I.A by the Ministry of Foreign Affairs in its Statement of Assets and Liabilities amongst other receipts for services rendered at the missions.

Committee Observation and Finding

The Committee marked the matter as resolved

Committee Recommendation

That the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

246.2 Passports

Audit inspection of selected Kenya missions/embassies in the financial year 2014/2015 that included Washington DC, London, Berlin and Pretoria revealed that several blank passports were issued directly to the missions by the Department of Immigration. However, the passports were not recorded at the missions/embassies Counter Receipt Book Registers - CRBR and also not produced for physical audit verification as required under Section 118(2) of Public Finance Management Regulations 2015. Subsequently, the existence of these passports valued at Kshs.133, 052,500.00 as detailed could not be confirmed: -

Mission	Amount (Kshs.)
Washington DC	19,500,000.00
London	93,000,000.00
Berlin	7,742,500.00

Pretoria	12,810,000.00
	133,052,500.00

In view of the foregoing together with explanation submitted by Immigration department that visa stickers and passports are not included in Public Finance Regulations as accountable documents, it is not possible to confirm that their use is lawful and effective as required in Article 229 (6) of the Constitution of Kenya (2010).

The accounting officer stated that there are five missions where the passport processing system has been installed, namely:-

- Washington D.C.
- London
- Dubai
- Pretoria
- Berlin

Blank passport booklets are issued from the Department of Immigration stores to the Ministry of Foreign Affairs upon requisition. Application for passports received by the missions above are therefore processed at the mission and issued to the applicants. The Ministry of Interior and Coordination of National Government has written to the Ministry of Foreign Affairs to facilitate the availability of the documents requested by the auditor General to facilitate physical audit verification. Attached are copies of the registers from the missions under reference in respect of the said passports booklets. In response one mission (Washington DC) has already forwarded a copy of the CRBR which has been availed to the auditor for verification. The others were availed to the Committee for verification.

Missions where the passport processing and printing system is not yet installed, forward their applications to the headquarters Nairobi (overseas section). Passports for these applications are processed, printed and sent back to the missions. Attached are copies of the registers from the overseas section under reference in respect of the said passports booklets.

Committee Observation and Finding

The Committee marked the matter as resolved

Committee Recommendation

That the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

247. Purchase of Land and Houses for General Service Unit

As reported in paragraph 77 of the audit report for the financial year ended 30 June 2014 attention was drawn to the irregular purchase of land and houses for General Service Unit in which the Ministry paid Kshs.1,200,000,000.00 out of Kshs.2,400,000,000.00 in regard to Civil Case Number NRB.HCC 617 of 2012 through Legal Dues, Arbitration and Compensation. It was noted that the Ministry, in the year under review, further paid an additional Kshs.600, 000,000.00 on 25 March 2015. No justification has been provided for this irregularity.

Submissions by Accounting Officer

It was true that Kshs 600,000.000.00 was paid on 25 March 2015. As explained in paragraph 77 of your report for financial year ended 30 June 2014, Afrison Export Import Limited purchased the land from Joreth Limited on 29th December, 1981. Later, Afrison entered into an agreement with the defunct Kenya Posts andTelecommunications Corporation (KPTC) for the development and sale of 500 maisonettes which were to be constructed on that land. To facilitate the construction of the houses, Afrison entered into a financing agreement with Continental Credit Finance Ltd for a sum of 21 million.

In 1986, Continental Credit Finance Limited was placed under receivership and an official receiver was appointed the liquidator.

Consequently, KPTC entered into an agreement with Afrison, that KPTC would provide financing to complete the houses and then thereafter, the houses would be transferred to KPTC after completion.

By 1988, 196 houses had been completed and KPTC started to experience financial difficulties and could no longer finance the construction any further. KPTC sought a buyer so that it could recover the money it had spent.

KPTC entered into negotiations with the PS, Office of the President for the purchase of 196 houses for the sum of 64 Million. The Ministry's decision to buy the houses was informed by the fact that there was need to beef up security due to key installations around that area which included De La Rue, EPZ etc. An agreement was entered into on 18th August, 1988.

The GSU took possession of the 196 completed houses and others that were incomplete occupying 17.8 acres. However, despite paying the purchase price, no ownership documents were passed to Government as the title was held by Continental Credit Finance as the mortgagor.

The matter was brought before Parliament, and a directive was issued that Government should pursue possession of the title for the 196 units that were paid for. Further, the 19.6 acres that they had taken possession of, without consideration to the owner, should be negotiated for with the official receiver and the registered owner.

The Ministry constituted a committee to negotiate with Afrison, but the committee was unable to agree with them. Afrison moved to court in Nairobi. HCC 617/12 and they were awarded Kshs4, 086,683,330.00 as fair value for the sued property.

The Attorney General filed a notice of appeal against the court's judgment as the court found that the entire property (37.4 acres) was in dispute, completely disregarding the agreement between OOP and KPTC. However, the PS sought the AG's advice on the possibility of an amicable settlement.

A meeting was held and the Judgment Debtor agreed to have the judgment debt reduced from ksh.4, 086,683,330.00 to Kshs. 2,400,000,000/=.

Regarding the use of Government Valuation of the land during the hearing of the case against government, there is no reference made in the judgment and it may therefore be presumed that government did not file the valuation report. However, the government had valuation report which Office of the Attorney General informs was examined by the taskforce and was used during negotiations leading to the reduction of the court award.

The decision of the court was that the Ministry entered into an illegal sale agreement with KPTC as noted, however the understanding of the Government at the time of the transaction was that KPTC is a communication agency of government who had invested substantially in development of Drive-In Estate. Purchasing of the KPTC interest in Drive-In served two purposes:-

1. Acquiring residential quarters for GSU at a strategic and convenient area
2. Securing land for future development by the police (GSU)

It was on record that these were the factors considered by the Treasury, City Council of Nairobi, Ministry of Lands and Attorney General. In fact, subsequent to the meeting of these government organs, Office of the President was directed to pay the outstanding rates for that land which was done. Consultations commenced between this Ministry and the Official Receiver, who is an officer in the office of Attorney General, on the purchase of the land in question whereby the Official Receiver committed to sell to the Ministry all that GSU land for 150 million but the registered owners protested and objected to the proposed price given by the Official Receiver and sought for the variation of the price based on the market price.

The then Office of the President signed the sale agreement on the understanding that it was getting the equitable right that KPTC had over the Drive-In Estate. Further, it should be noted that, this agreement was signed by the Office of the Attorney General and the Advocate of KPTC. The evidence of fair play is that the surplus of the purchase price was transmitted to the Official Receiver on the account of Afrison and Huelands companies who are the registered owners and loanees to Continental Credit Finance Ltd. Evidence of this transmission was availed to the Committee for verification.

Committee Observation and Finding

The Committee marked the matter as resolved

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

248. Loss of Kshs.14, 004,600.00 through Irregular Training of Pilots

Examination of records maintained at Kenya Police Service shows that the office of the Inspector General of Police entered into a contract to organise training known as 4x ab initial to commercial helicopter pilots with M/s Acariza Aviation Limited (Contract No. SL/CPL (H)/KPAW/0614) at a sum of Kshs.75, 627,483.70.

Further, Kenya Police Service Training Committee (KPSTC) approved that four (4) police officers were to be trained as helicopter pilots at Starlite School (South Africa). However, in unclear circumstances, an officer who was approved by Kenya Police Service Training Committee (KPSTC) to train as fixed wing pilot at Ninety Nine Flying School was irregularly included among helicopter trainees scheduled to join Starlite School (South Africa).

Further, an examination of final suspension report dated 11th May 2015 show that the officer was suspended from the training school due to the following reasons: -

(i) The student experiences disorientation during transitions and climbing turns.

(ii) Her hovering is improving but not safe.

(iii) When going through transition from hover to forward flight, she either climbs or dives toward the ground.

(iv) During climbing turns, she enters a spiral drive to the left, which eventually is noticed and recovered at +- 150 feet Above Ground Level (AGL).

(v) The student's approach to landing is dangerous, with high rate of decent and onward speed, until the instructor has to recover before ground impact.

Records availed for audit further show that Kshs.14, 004,600.00 had been incurred on the trainee at the time of her suspension, resulting in a nugatory payment which has not been recovered or explained.

In addition, examination of the Office of the Inspector General's response Ref. No. SEC. POL. 1/5/10/1/VOL. X/145 dated 7 June 2016 shows that the four (4) officers who were nominated and approved to be trained as helicopter pilots were replaced with four (4) other officers whose training cost amounted to Kshs.75,627,483.70 paid through voucher No. 124 dated 1 September 2014. No justification has been provided for the change.

In a due diligence check M/s Acariza Aviation Limited is not registered by Kenya Civil Aviation Authority to offer aviation training services in Kenya.

Submission by Accounting Officer

The initial nomination of pilot was approved on 4th September 2014 with the following other officers:

- No. 93644 IP Johnson Kamau
- No. 96720 PC Michael Shikuku
- No. 97045 PC(W)Nancy Waithera
- No. 96186 IP Jacinta Emankor

Before the students' departure to South Africa, Nancy Waithera got pregnant and could not undertake the flying course. She was replaced by Caroline Muthoni as per our letter dated 1st October 2014 annex AW (2).

In their letter dated 6th October 2014 annex AW (3) an additional four pilots were nominated for training in the same Institution. Erroneously No.102192 IP Caroline Muthoni who had replaced Nancy Waithera earlier was included and had to be replaced by No. 96610 PC (W) Trizah Ripoi as per the above letter. Travel clearance was issued on 1st November 2014 annex AW (4) as per the Inspector General's letter. On 17th November 2014 ACARIZA Aviation Limited who were representing Starlite School locally issued an invoice for the four students as per the attached letter annex AW (5). In the course of training in South Africa, Triza Ripoi was suspended and the Airwing sought authority for replacement which was granted as per the attached letter dated 22nd May 2015 annex AW(6). Our request letter for replacement was dated 18th May 2015.

By the time Trizah Ripoi was suspended from flying, she had utilised part of the tuition fees as per our letter dated 14th December 2015 annex AW(7) and the utilized funds had to be paid to enable the replacement student to complete the course. An invoice of USD.137,000.00 was issued by Acariza Aviation on behalf of Starlite School. The replacement student was No. 95540 PC Peter Kemboi who was undergoing training on fixed wing at Nairobi Flight Training as per the attached letter dated 2nd June 2014. He was replaced by the student who failed helicopter training in South Africa and she was assessed able to fly fixed wing aircraft. She has now graduated as a fixed wing pilot.

Failing flying training is normal and like any other Institution, the money cannot be refunded and since we had a balance in the account, the most logical thing was to replace the student and top up the utilized amount. All the letters referred to were availed before the Committee for verification.

Committee Observation and Finding

The Committee marked the matter was resolved

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

249. Unaccounted Fuel at Embu West OCPD Embu West Kshs. 643,957.00

Examination of records maintained at various counties revealed that payments amounting to Kshs.1,002,887.00 were made to various suppliers for purchase of fuel during the financial year 2014/2015 as follows: -

County	Amount (Kshs.)
OCPD Embu West	643,957.00
DCIO Embu West	358,930.00
Total	**1,002,887.00**

However, updated fuel registers in support of Kshs.1,002,887.00 were not made available for audit review to show how the fuel was drawn and utilized. Consequently, the propriety of the expenditure of Kshs.1, 002,887.00 could not be ascertained.

Further, the odometer for motor vehicle registration number GK A623A was faulty for the period under review. It was therefore, not possible to ascertain the total distance covered by the vehicle and whether it was economical to use.

Submission by Accounting Officer

It was true that payment amounting to Kshs. 643,957.00 was paid to supplier of fuel during the financial year 2014/2015.This amount was paid to M/S Paluma Limited Services; the Contract fuel supplier. The division has been maintaining fuel registers and the copies for the period under review are now available for verification.

DCIO Embu West Kshs. 358,930.0

The Accounting Officer admitted that it was true an amount of Kshs. 358,930.00 could not be accounted for due to lack of updated fuel registers. This was as a result of the unprecedented change of guard at the Division whereby the DCIO and his deputy tendered their resignations. The handing and taking over exercises were still ongoing when the Auditors came for the audit and therefore, the document were not easily accessible at that time. These documents are now available for verification.

It was also true the odometer for Motor Vehicle registration number GK A623A was faulty but has since been repaired.

Committee Observation and Finding

The Committee marked the matter was resolved

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

250. Irregular Procurement of Materials for Construction and Rehabilitation of Non-Residential and Residential Buildings

Examination of payment vouchers at Narok North District Treasury revealed that temporary imprest totaling Kshs.5,487,750.00 were issued to officers and spent on construction of Narok County Police Administration block and renovation of Narok County Police Commander's residential house number NAROK/HOUSE/HG4.

Documentary evidence presented for audit revealed that the engineer's estimates for the construction of the administration block and renovation of residential houses were Kshs.3,483,143.60 and Kshs.1,857,160.00 respectively, all totaling Kshs.5,340,303.60. However, the following observations were made: -

The Architectural Design and plan for the Administration block was not done making it difficult to explain how the engineer's estimates were developed by the County works officer-Narok.

The Construction works were not secured competitively as it was observed that two (2) officers were issued with imprest which they used to purchase building materials and labour. The imprest holders were also involved solely in ordering and receiving of building materials as evidenced by forms S13 attached to the payment. The building materials and labour were sourced from suppliers who were not pre-qualified for the financial year 2014/2015 contract is unexplained. A site visit conducted on 28 August 2015 revealed that some works were done and the buildings were in use. However, final measurements of works from the county works officer were not done.

In the absence of a proper procurement process, supervision and measurement of works it is not possible to confirm authorization and value for money in an expenditure totaling Kshs.5,487,750.00 incurred on construction and rehabilitation of non-residential and residential buildings as required by Section 68 (1) of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The accountin officer admitted that it was true that County Government of Narok funded construction of Narok County Police Administration block and renovation of Narok County Police Commanders Residential house number NAROK/HOUSE/HG4. The county government funded the construction after a request from the Public who were the stakeholders to the project; therefore, the accounting of the funds was done through the County Government.

Committee Observations and Findings

The Committee marked the matter was resolvedCommittee Recommendation

That the Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

251. Pending Bills

Information and records availed indicate that pending bills totaling Kshs.5,070,255,153.07 as shown were not settled in the year that they relate to but were instead carried forward to year 2015 / 2016.

Financial Year	Amount (Kshs.)
2012/2013	1,720,959,324.75
2013/2014	2,641,689,049.85
2014/2015	5,070,255,153.07

The Kshs.5, 070,255,153.07 pending bills for the year under review differs with the supporting schedules and documentation. Kshs.4, 828,392,000.00 reflected in the financial statement and under note 26.1 by an unexplained and unreconciled difference of Kshs.241, 863,153.07.

Had these bills been paid and expenditure charged to the accounts for the current year, the statement of receipts and payments for the year ended 30 June 2015 would have reflected an excess vote (deficit) of Kshs.4, 810,136,153.00 instead of the surplus of Kshs.260, 119,000.00 now shown.

Failure to settle bills during the year to which they relate distorts the financial statements for the year and adversely affects the budgetary provision for the subsequent year to which they have to be charged. No justification has been provided by the Accounting Officer for failure to pay bills in the year that they relate to.

Submission by Accounting Officer

The accounting officer admitted that pending bills totaling Kshs.5, 070,255,153.07 were carried forward to year 2015/2016.

This was occasioned by the following:-

- Late approval of the 2nd supplementary budget.
- IFMIS processing challenges.

The pending bills of Kshs.5,070,255,153.07 as per the supporting schedules and documentation differs with the amount reflected in the financial statement of Kshs.4,828,000.00, resulting to difference of Kshs.241,863,153.07.

The difference of Kshs.241, 863,153.00 relate to pending bills which were inadvertently omitted from the list of pending bills.

All the pending bills including the initially excluded in the pending bill list were verified processed and paid during the 2015/2016 Financial Year.

Committee Observations and Findings

The Committee marked the matter was resolved

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

252. Inaccuracy of the Financial Statements

The statement of assets as at 30 June 2015 includes un-vouched and unsupported prior year adjustments figure of Kshs. (876,675,000.00) under the funds balance adjustments. Consequently, the accuracy and validity of the net financial position of Kshs.2,032,899,000.00 as reflected in these financial statements could not be confirmed.

Submissions by Accounting Officer

The accounting officer submitted that the Statement of Assets as at 30th June 2015 include a prior adjustment figure of Kshs. 867,675,000.00. The make-up of this figure is as follows:

2014-2015 Prior Year Adjustment

Imprest	129,715,887.75
Advances	226,303.20
Revenue	215,153,121.25
Revenue(Hqs.)	127,700,597.90
District Suspense	292,173,463.85
Retention Monies	102,706,125.35
Total	**867,675,499.30**

The relevant journals to support this adjustment are available.

Committee Observations and Findings

The Committee marked the matter was resolved

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

GOVERNMENT PRESS FUND

Unqualified Opinion

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

KENYA CITIZENS AND FOREIGN NATIONALS MANAGEMENT SERVICE

Other Matter

Information available indicates that the Acting Director General was paid a sum of Kshs.6,735,000.00 contrary to Cabinet Secretary's letter Ref: CONF/MOICNG/CS/VOL.1 dated 3 June 2014 that required terms and conditions of engaging Acting Director General be determined in consultation with Salaries and Remuneration Commission. In addition, no justification has been made for failure to competitively recruit and recommend an appointment of the Director General / Chief Executive Officer in accordance with Section 13(1) and (2) of the Kenya Citizens and Foreign Nationals Management Act, 2011.

Submissions by Accounting Officer

The accounting officer stated that Recruitment of the Director General, the KCFNMS Board advertised for the post internally and conducted interviews for the post of the Director General and the names of the shortlisted candidates were forwarded to the Cabinet Secretary for him to appoint one among the qualified shortlisted candidates and the Board is still awaiting response from the Cabinet Secretary.

The service has made various correspondences and held consultative meeting with salaries and Remuneration Commission (SRC) on the issue of the salary for the organization.

Salary Remuneration Commission (SRC) has not made a decision on the matter because the service has not been categorized by State Corporations Advisory Committee (SCAC).

Committee Observations and Findings

1. **Recruitment of the Director General, the KCFNMS Board advertised for the post internally and conducted interviews for the post of the Director General and the names of the shortlisted candidates were forwarded to the Cabinet Secretary for him to appoint one among the qualified shortlisted candidates and the Board was still awaiting response from the Cabinet Secretary.**
2. **The service has made various correspondences and held consultative meeting with Salaries and Remuneration Commission (SRC) on the issue of the salary for the organization. SRC has not made a decision on the matter because the service has not been categorized by State Corporations Advisory Committee (SCAC).**

3. **The Cabinet Secretary should appoint the Director General from the shortlisted names submitted for his consideration.**
4. **The State Corporations Advisory Committee should move to categorize the service.**

Committee Recommendation

The Cabinet Secretary should appoint the Director General/ Chief Executive Officer for Kenya Citizens and Foreign Nationals Management Service in accordance with Section 13(1) and (2) of the Kenya Citizens and Foreign Nationals Management Act, 2011 within three months after the adoption of this report.

254. The service has not undertaken its functions to discharge its mandate fully as stipulated in Section 4(2) V of the Kenya Citizens and Foreign Nationals Management Service Act Cap 174, Laws of Kenya due to the failure of State Corporations Advisory Committee (SCAC) to categorize it. Arising from the above, the KCFNMS Board has not appointed a substantive Director General/Chief Executive Officer and the proposed organization and pay structure cannot be approved by the Salaries and Remuneration Commission.

Submission by Accounting Officer

The accounting officer stated that In the Financial Year 2015/16, The Budget for Kenya Citizen and Foreign National Management Act (KCFNMS) was prepared, approved by the board and signed by the chairperson of the board. Since the service is not fully operational and the funds allocated are meant to assist the Board in its day to day operations, it would therefore imply that the funds are used majorly for facilitating the Board meetings, hence then omission.

However, the Board's budget for the Financial Year 2016/2017 and Financial Year 2017/18 was approved by the Cabinet Secretary as required under the Act.

Committee Observation and Finding

With respect to paragraph 254 relating to the Kenya Citizens and Foreign Nationals Management Service, the Accounting officer tabled an explanation that satisfied the Committee.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

255. Un-surrendered Revenue

Information and documentation available indicates that the State Department of Interior received revenue totaling Kshs.8,511,806,825.30 from eight (8) sub-collectors of revenue, that was surrendered to the State Department's headquarters. However, the

Revenue Statement as at 30 June 2015 reflects actual revenue surrendered to the exchequer of Kshs.8, 426,227,232.00 resulting in an unexplained and unaccountable difference of Kshs.85, 579,593.30.

Submission by Accounting Officer

The accounting officer admitted that it was true there was a difference between the revenue statement and the actual revenue collected amounting to Kshs.85, 579,593.30 at the end of 2014/15 financial year.

The difference was as a result of revenue collected in the financial year 2014/2015 but surrendered in the financial year 2015/16 by the following departments.

(i) CID	-	78,103,110.00
(ii) GSU	-	3,385,856.00
(iii)SGB	-	56,857.30
(iv)Police Hqs.	-	4,033,770.00
Total		**85,579,593.30**

This was however surrendered and accounted for in the year 2015/16 financial year, copies of the bank statements and FO.17 were availed to the Committee for verification.

Committee Observations and Findings

The Committee marked the matter was resolved

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

256 Un-receipted Revenue

Revenue records maintained at the Rapid Deployment Unit (RDU) indicate revenue amounting to Kshs.3, 669,650.00 as having been collected under the hire of Security Services. No documentary evidence has been availed to confirm receipt and accountability of this revenue as required by Section 6.7.1 and 23.6.7 of the Government Financial Regulations and Procedures. No justification has been provided for this irregularity.

Submission by Accounting Officer

It was true that part of the revenue amounting to Kshs.3, 669,650.00 was not properly receipted. An amount totaling to Kshs.1, 212,100.00 was deposited directly to CBK by G4S group for hire of security services while the balance totaling Kshs.2, 457,550.00 was forwarded to Ministry's headquarters as shown by copies of FO.17 attached and MRS attached. Therefore only Kshs.1, 212,100.00 had not been receipted but were supported by pay-in-slips. This anomaly was corrected in the 2015/2016 financial year.

Committee Observation and Finding

The Committee marked the matter was resolved

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

22.2. STATE DEPARTMENT FOR COORDINATION OF NATIONAL GOVERNMENT

FINANCIAL STATEMENTS FOR VOTE 134

Mr. Alfred Cheruyiot , the Accounting Officer State Department of Coordination of National Government accompanied by Ms. Kerandi Sarah; Chief Finance Officer Correctional Service, Mr. Joseph K. Mwangi; Senior Chief Accountant Correctional Service, Mr. Josphat K. Huke; Senior Chief Accountant Kenya Prison Service, Mr. IsayaOsugo; Commissioner General Prison Service, Mr. Mwangi Daniel; Accountant Correctional Services, Mr. Patrick Kariri; Deputy Director Prison Service, Mr. Shadrack K. Kavutai; Accountant Probation, Mr. James M. Nyabocha; CE Correctional Service, Mr. W Wandona; Ag, Director Correctional Service appeared before the Committee on 18th May, 2018, to adduce evidence on the audited Financial Statements of Vote 134 State Department of Cordnation of National Government for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Disclaimer of Opinion

257. Unaccounted for Revenue

As reported in the previous year's audit report, the Prisons Industries and Farms Funds had a closing account balance of Kshs.175,987,430.51 as at 30 June 2013 that was held in the former Vice President and Ministry of Home Affairs - MOHA deposit account.

The former Vice President and Ministry of Home Affairs operations were merged during the year 2013/2014, into the Ministry of Interior and Coordination of National Government and amounts totaling Kshs.173,970,762.35 were collected between 1 July 2013 and 3 October 2013 when a separate but combined account was opened for the Fund. In the circumstances, these two amounts totaling Kshs.349,958,192.86 ought to have been deposited in the new bank account. Information and records availed indicate that only Kshs.118,725,674.40 was deposited resulting in a Kshs.231,232,518.50 loss of public funds that has not been accounted for. No justification by management has been made for this irregularity.

Submission by Accounting Officer

He admitted that the previous year's audit report reflected that Prison Industries and Farms Fund had a closing account balance of Kshs. 175,987,430.51 as at 30th June, 2013 that was held in former Office of the Vice President and Ministry of Home Affairs - MOHA deposit account. It is also true that during the financial year 2013-2014, amounts totaling to Kshs. 173,970, 762.35 was collected between 1st July, 2013 and 3rd October, 2013 when the new separate but combined fund account was opened. The Kshs. 173,970, 762.35 was being banked in the old Home Affairs Deposit Account - HADA from which only Kshs. 118, 725, 674.40 was transferred to the separate but combined fund account resulting to a deficit of Kshs. 231,232,518.50.

The above figures are composed of industries and also farms collections as shown below: -

	June 2013 Balances b/f (Kshs)	July-Oct, 2013 Collections (Kshs)	Total (Kshs)
Prison industries Prison farms	119,965,675.51 56,021,755.00	155,336,405.00 18,634,357.35	275,302,080.51 74,656,112.35
Total	**175,987,430.51**	**173,970,762.35**	**349,958,192.86**
Less transferred	0	118, 725,674.40	118, 725,674.40
Net balance	175,987,430.51	55,245,087.95	231,232,518.46

The amount transferred to the new Prison Industries fund account of Kshs.118, 725,674.40 is as shown below:-

Prisons Industries	92,135,930.55
Prisons farms	26,589,743.85
Total	**118,725,674.40**

He submitted that that MOHA was merged with OOP to form Ministry of Interior & Coordination of National Government and also subsequently splitting of the Interior and Coordination vote in 2014/15 FY into two votes 1021 & 1022. The vote 1022 State Department for Coordination of National Government has again been changed to State Department of Correctional Services under Vote 1023. The State Department have initiated the transfer of the outstanding balances of Kshs.231,232,518.46 to our new Prison fund account A/c No 1000307498 in Central Bank of Kenya as per our office letter SDC/SEC/FIN/3/12/(52) dated 13th October 2016 addressed to the Director General, Accounting Services and Quality Assurance, National Treasury.

The State Department has written to the State Department for Interior for the corrections of July-October 2013 balance of Kshs.55, 245,087.95 leaving a balance of Kshs.175,987,430.51 being pursued from.

Committee Observations

The Committee marked the matter was resolved after considering the correspondences on the realignment and restructuring of government.

258. Biogas Project at Kenya Prisons Service

As reported in the previous year's audit report the Kenya Prisons Services had initiated biogas projects in fourteen (14) prisons across the country at an estimated cost of Kshs.122,129,538.00 out of which, expenditure totaling Kshs.95,758,296.00 had been incurred. The following irregularities were observed in the year under review: -

i. Out of the fourteen (14) Biogas projects, only four projects are partially operational at Embu Main, Embu Women, Kisumu Main and Kitui Main Prisons while the rest are either incomplete or not operational.

ii. The biogas plant at Nairobi Remand is not operational yet the contractor who has since abandoned the site was fully paid amounts totaling Kshs.7,500,724.00.

iii. Although the management indicated that it formed a task force that was to evaluate and submit a status report on the bio gas plants, the same has not been availed for audit review.

iv. A sum of Kshs.46,481,255.00 or 93% of the contract sum has so far been paid on four (4) Biogas plants contracted to private companies as follows: -

Prison	Contract Sum Kshs.	Amount Paid Kshs.
Nairobi Remand and allocation	7,500,724.00	7,500,724.00
Shimo La Tewa Main	11,528,602.00	11,528,602.00
Kibos Main	11,900,000.00	8,150,000.00
Kamiti Main	19,301,929.00	19,301,929.00
Totals	**50,231,255.00**	**46,481,255.00**

None of these projects at the time of the audit was operational.

Under the circumstances, it is not possible to confirm that Kshs.95,758,296.00 so far spent on all the fourteen (14) biogas plants was lawful and effective as required by Article 229(6) of the Constitution of Kenya, 2010.

Submission by Accounting Officer

He admitted that the Kenya Prisons Service had initiated fourteen (14) Biogas projects as a measure to reduce cost on wood fuel and manage sewerage at an estimated cost of Kshs. 122,129,538.00 where expenditure of Kshs. 95,758,296.00 was incurred. It is also true that out of 14 biogas projects, four were partially operational. The Nairobi Remand had an allocation for Prison biogas plant which was also not operational even after paying the contractor the full amount totaling to Kshs. 7,500,724. It is also true that Kshs. 46, 481,251.00 approximately 93% of the contract sum had been paid to four biogas plants contracted to private companies while the plants were not operational. It is also true that a task force was formed by the management to evaluate and submit status report on the biogas plant which was not submitted to the auditors at the time of the audit.

The meeting heard the 14 biogas projects were originally estimated to cost Kshs. 122, 129,538.00 but were revised downwards to Kshs. 113,129,538.88 of which only 100,008,296.18 was allocated out of which an expenditure of Kshs. 95,758,296.00 was incurred. The four partially operational biogas projects had some additional works which were not included in the original BQs to make them fully operational as per the Task force recommendations.

He submitted that the plant at Nairobi remand was not operational at the time of the audit. However, it is partially operational producing gas which cannot be utilized as stated above. The contractor was paid as per the contracted works and BQs. The payment of Kshs. 7,500,724.00 was based on works done, evaluated and certified on May 2013. However, there was variation of the contract upwards from Kshs. 7,500,724.00 to Kshs. 7,681,462.00 Also other additional works were introduced after consultations between the Department of Public Works, Prisons department and department of Renewable Energy and Petroleum as per attached letter Ref D03/B/2/235. The task force report has since been availed to the auditors for review.

He further submitted that the expenditure of Kshs. 46,481,255.00 or 93% of the contract sum so far paid on four biogas plants contracted to private companies as shown below were not operational due to reasons quoted above.

	Contractor	Contract Sum (Kshs)	Amount Paid (Kshs)	Status
Nairobi Remand & Allocation	Folis Contractor Ltd	7,500,724.00	7,500,724.00	Operational but requires some components to be efficient
Shimo La Tewa	Gaster	11,528,602	11,528,602	Not operational and require balloons and connectors to the kitchen

Kibos Main	Silluma Enterprises	11,900,000	8,150,000	Not operational and requires additional funding
Kamiti Main	Grate Greace Agencies	19,301,929	19,301,929	Needs to be separated from storm water
TOTAL		**50,231,255.00**	**46,481,255.00**	

The meeting heard that the fourteen biogas plants projects have already spent Kshs. 95, 758,296.00 but additional funds are needed for all of them to be fully operational as per the table shown below: -

The total 14 biogas projects and their status are shown below: -

S/N	Station	Commencing Date	Estimated Cost As Per The Bqs	Total Allocation	Completion Status	Remarks
1	Embu Main	11/2/2011	4,548,190.00	4,548,190.00	100%	Fully operational
2	Embu Women	15/3/2011	3,834,000.00	3,200,000.00	83%	Partially Operational
3	Kitui Main	16/3/2011	5,016,525.00	4,500,000.00	90%	Partially Operational
4	Kangeta	6/6/2011	6,000,000.00	6,000,000.00	100%	Operational
5	Kibos Main	11/6/2012	12,949,525.00	8,150,000.00	63%	Incomplete

6	Kisumu Main	16/6/2012	5,750,000.00	3,750,000.00	65%	Partially operational
7	Shimo Main	28/5/2012	11,528,602.00	11,528,602.00	100%	Incomplete
8	Nairobi Remand	24/1/2013	7,681,462.00	7,500,000.00	97%	Partially operational
9	Kamiti Main	25/1/2013	19,487,290.08	19,301,929.18	99%	Partially operational
10	Manyani	13/1/2014	10,000,000.00	5,000,000.00	50%	Not complete
11	Malindi	1/4/2014	8,200,000.00	5,000,000.00	60%	Not complete
12	Meru Main	16/4/2014	9,000,000.00	5,000,000.00	55%	Not complete
13	Nakuru Main	2/7/2014	13,600,000.00	8,850,000.00	65%	Not complete
14	Bungoma	15/9/2014	4,533,923.80	3,928,851.00	86%	Not complete
	Total		**113,129,538.88**	**100,008,296.18**		

The meeting heard that the estimated cost was not fully funded and hence there has been delay in funding. The estimated cost may also vary due to the long waiting period. The State Department had written to Ministry of Housing to get the BQs of the remaining works to complete the fourteen (14) projects. This would give an estimate to factor in the Budget.

Committee Observations and Findings

1. **The Committee observed that the bio gas project was a very idea. However, the Ministry of Public Works and Ministry of Housing did not do proper fact finding on the requirements for a fully functional biogas project of that magnitude**

2. **The allocated funds were not enough to complete the project due to variations of works by the Ministry of Public Works.**

Committee Recommendations

1. **The Ministry of Public Works and Housing must always put in place proper measures to avoid loss of funds incurred through variations and delayed completion of government projects arising from BQs not well considered.**
2. **Ministry of Public Works must always give approval for payments of works completed on a particular project without delay.**

259. Outstanding Imprests

The statement of financial position as at 30 June 2015 reflects under accounts receivables, imprests amounts totaling Kshs.2,896,655,400.00 which differ with the trial balance figure of Kshs.10,740,300.00.The difference of Kshs.2,885,915,100.00 between the two sets of records has not been reconciled. Management has indicated that the difference is due to erroneous postings by the IFMIS system.

Imprest registers maintained by the department reflect an outstanding imprest balance of Kshs.3,321,600.00, that ought to have been recovered or accounted for on or before 30 June 2015.

No reasons have, however, been provided for failure to surrender or account for the imprests as required by section 93 (5),(6) and (7) of the Public Finance Management Regulations, 2015 which requires a holder of imprest to account or surrender imprest within seven (7) working days after return to duty station.

In addition, the accounting officer has not recovered the outstanding imprest from the defaulting officers' salaries with interest, thus in breach of the Public Finance Management Regulations, 2015 on imprests.

Submission by Accounting Officer

He admitted that the statement of financial position as at 30th June, 2015 reflect under the accounts receivables, imprest amount totaling to Kshs. 2,896,655,400.00 which differs with trial balance figure of Kshs. 10,740,300.00 resulting to a difference of Kshs. 2,885, 915,100.00 between the two set of records, although the difference was explained to the auditors to have been caused by erroneous historical postings in the IFMIS since inception.

He admitted that the Imprest registers maintained by the department reflected a balance of Kshs. 3,321,633.00 that was not surrendered as at 30th June, 2015. The imprest was fully accounted for.

Committee Observations and Findings

1. **The Committee observed that the State Department had availed outstanding Imprest schedule without supporting payment voucher**
2. **The Accounting Officer was directed to avail the above documents to the auditor for verifications**
3. **The query remained unresolved**

Committee Recommendation

The Accouting Officer during the year under review, Ms. Josephta Amukobe should be reprimanded failure to surrender or account for the imprests as required by section 93 (5),(6) and (7) of the Public Finance Management (National Government) Regulations, 2015 which requires a holder of imprest to account or surrender imprest within seven (7) working days after return to duty station.

260. Utilities Supplies and Services

260.1 Electricity Examination of payments made to Kenya Power revealed that the department is paying huge sums of money on electricity bills including a single one paid on 27 November, 2014, of Kshs.167,499,749. This is included in the utilities supplies and services total figure of Kshs.655,069,700 in the year. Examination of schedules of electricity meter serial numbers used revealed that some of the meter numbers do not clearly indicate the location or description of the premises.

Further, the department is paying electricity bills for canteens operated by welfares and workshops for the Prison Industry which are profit making ventures, and their operating costs are separate from Prisons departments.

An audit inspection of Nairobi Remand Prison, Industrial Area, revealed that there are loose power connections in the staff quarters posing risks to staff and their families. Management has not provided justification for these anomalies.

Submission by Accounting Officer

He admits that the department paid a huge sum of money on electricity bills including a single one paid on 27/11/2014 of Kshs. 167,499,749.00 which is included in the utilities supplies and services a totaling to Kshs.655, 069,700.00 paid during the year. It is also true that the department electricity bill covered canteens and workshops for prison industries which are profit making ventures. It is also true that some meter numbers do not clearly indicate the location or description of the premises.

He submitted that the huge payment of Kshs. 167,499,749.00 was an accumulation of outstanding arrears for a period of 3 months plus the bill for September 2014. The State Department has instituted measures to separate bills to stand alone, the State Department's electricity bills for all prison stations have drastically reduced from Kshs. 39 million to between 15 million and 19 million per month.

Committee Observation and Finding

The Committee observed that electricity meters should be located at specific locations on particular buildings for easy identification and location

Committee Recommendation

The ministry should consider fixing prepaid electricity metres for all utilities in all prison facilities around the country to regulate usage of power as and when necessary.

260.2 Water Examination of payment records pertaining to water bills revealed that a total of Kshs.165, 970,236.40 was paid to various water bodies across the country for water supplied to Penal Institutions.

Although, some stations accrued high water bills, the Ministry had mitigated the water problems by sinking boreholes to supplement the water supply as follows: -

Summary of Boreholes Drilled at the Stations 2014/15				
Station	**Estimated cost**	**Cost Incurred as at June 2015**	**Balance**	**Water bills paid in 2014/15**
Kitui	3,000,000.00	1,500,000.00	1,500,000.00	734,440.00
Nyahururu prison	9,505,576.00	4,594,601.00	4,910,975.00	2,381,511.00
Kajiado prison	8,512,209.00	6,802,166.00	1,710,043.00	6,701,060.00
Hola prison	9,527,704.00	4,749,855.00	4,777,849.00	174,200.00

Taveta prison	10,382,328.00	8,169,285.00	2,213,043.00	2,051,760.00
Total	**40,927,817.00**	**25,815,907.00**	**15,111,910.00**	**12,042971.00**

In the circumstances, it is not possible to confirm that the Department has obtained value for Kshs.25, 815,907.00 incurred in sinking of the boreholes to supplement water supply when water bills are totaling Kshs.12, 042,971.00.

Submission by Accounting Officer

He admitted that the department incurred water bills totaling to Ksh. 165,970,246.40 paid to various water bodies across the country for water supplied to various penal institutions. The constructions of boreholes were still ongoing at the time of audit and the full reduction of water bills could not have been achieved until they are completed. The sampled stations boreholes were not complete hence the Kshs. 25, 815,907.00 against Kshs. 12, 042,971.00 are not comparable until full installation is done.

He submitted that after the boreholes are complete the water companies will only charge the sewerage charges. However, Nyahururu and Hola boreholes have been completed and the situation has improved.

Committee Observation and Finding

The Committee observed that delayed completion of boreholes in penal institutions had led to the department incurring huge bills on water.

Committee Recommendation

The Accounting Officer must make sure the ongoing drilling of boreholes in penal institutions is completed within six months after the adoption this report to avoid future incurring huge bills in future.

261. Over Pricing of Stores Resulting in Loss of Kshs.62, 512,859.00

As reported in the previous year's audit report, during the year under review, the Kenya Prisons Service procured goods from suppliers at prices stipulated in the tender but a market survey done and a comparison with known market prices shows that the quoted prices were far much higher and above the prevailing market prices resulting in an approximate loss of Kshs.62,512,859.00, contrary to Section 30 (3) of the Public Procurement and Disposal Act, 2005; and Section 8(3) (z) of Public Procurement and Disposal Regulations, 2006 which states that a procuring entity shall carry out periodic market survey to inform the placing of orders or adjudication by the relevant award Committee and Section 10(2) (e) of Public Procurement and Disposal Regulations, 2006 which requires that a procuring entity should not pay in excess of the prevailing market price.

Submission by Accounting Officer

He submitted that the committee when awarding the tender considered the uncertainty of prompt payments. The prices are quoted by suppliers appear to be above market price due to the long delays in settlement of their bills which at times extends in terms of years resulting to large pending bill problem. Also note that they supply on credit notes because the budget provisions have never been enough to pay the Bills. The National Treasury has agreed to station based budget to ensure that each station is able to commit only up to its allocation which is based on average lockup.

Committee Observations

1. **The Kenya Prisons Service may have lost Kshs.62,512,859.00 through overpricing of goods by suppliers**
2. **The Service did not carry out market survey in line with Section 30 (3) of the Public Procurement and Disposal Act, 2005; and Section 8(3) (z) of Public Procurement and Disposal Regulations, 2006 which states that a procuring entity shall carry out periodic market survey to inform the placing of orders or adjudication by the relevant award Committee.**
3. **Lack of market survey led to contravention of Regulation 10(2) (e) of Public Procurement and Disposal Regulations, 2006 which requires that a procuring entity should not pay in excess of the prevailing market price.**

Committee Recommendation

The Ministerial Tender Committee acted in contravention of Regulation 10 (2) (e) of PPDA 2005; Section 8 (3) (z), 30 (3), of the Public Procurement and Disposal Act 2005 and Section 198 (b) of the Public Finance Management Act 2012 and therefore, they must be investigated by the investigative agencies with a view to prosecution for causing loss of Kshs.62, 512,859.00 by the Kenya Prison Service.

262. Pending Bills

Records maintained at various GK Prisons indicated that bills totaling Kshs.2,143,639,500.00 relating to 2014/2015 and earlier years were not settled during the financial year, but were instead carried forward to 2015/2016 financial year. A comparison of pending bills from four stations revealed variations with balances reflected in the financial statements as indicated:

STATION	AMOUNT AS PER FINANCIAL STATEMENTS (KSHS)	AMOUNT REPORTED FROM THE STATION (KSHS)	
Eldoret Main Prison	21,901,775.00	113,881,199.00	91,979,424.00
Kitale Main Prison	1,657,740.00	22,544,880.00	20,887,140.00
KitaleAnnexe Prison	1,638,700.00	8,362,234.70	6,723,534.70
Ngeria Prison	3,055,433.00	14,925,162.00	11,869,729.00

From the above analysis the correctness of the pending bills amounting to Kshs.2,143,639,500 disclosed in the financial statements could not be ascertained.

Had the bills been paid and expenditure charged to the accounts for 2014/2015, the statement of receipts and payments would have recorded a net deficit of Kshs.2,143,573,263.40 instead of the Kshs.66,123,600 net surplus now shown. Failure to settle bills in the year to which they relate adversely affects the subsequent years' provision to which they have to be charged.

Submission by Accounting Officer

He admitted that the Department had pending bills of Kshs. 2,143,639,500.00 for financial year 2014/2015 and earlier years and were to be paid in financial year 2015/2016. The bills were carried forward due to inadequacy of the budgetary provisions. These relates to food and ration, wood fuel and refined fuel and lubricants which are necessary to feed the inmates and transport them to courts.

He submitted that the differences in the pending bills totals from four stations namely; Eldoret Main, Kitale Main, Kitale Annex and Ngeria and the total pending bills held at the Ministry Headquarters was brought about by misinterpretations of pending bills between the stations and Headquarters on which categories of payment bills were to be forwarded for payment. Field stations understood pending bills to mean all bills accruing from various areas of operations including utility, food and ration, wood fuel, fuel and lubricants, motor-vehicle maintenance, transport costs while Headquarters meant bills related to utilities, food and ration and wood fuel. This therefore explains the discrepancies between the two set of pending bills.

He admitted that the pending bills been cleared during the FY 2014/15 the statements of receipts and payments would have recorded a net deficit of Kshs. 2,143,573,264.40 instead of the net surplus of Kshs. 66,123,600 .00 shown in the statement of receipts and payments. In this regard, the pending bills could not have been charged to 2014/2015 financial year due to lack of budgetary provisions in the relevant items. However, the State Department has a historical budget deficit that has led to an accumulation of the pending bills over the years while there is no possible control of the number of inmates per year.

Committee Observation

The Service acted in contravention of the regulations which require that any pending bill should be paid as a first charge in the subsequent financial year

Committee Recommendation

The Accounting Officer must ensure the pending bills worth of Kshs.2,143,639,500.00are paid as a first charge in the succeeding financial year.

263. Inaccuracies of Accounts

The net assets balance of Kshs.1, 585,070,000 differs with the net financial position figure of Kshs.66, 123,600 by unexplained and unreconciled figure of Kshs.1, 518,946,700.

264. Suspense Account Balances – Kshs.2, 479,883,300.00

The trial balance reflects a Kshs.2, 479,883,300.00 general and district suspense accounts balance, which has not been incorporated in these financial statements. This amount has not been supported with an analysis and documentation.

265. Bank Balances

The statement of financial position reflects a bank balance of Kshs.18,467,420,200 which differs with the cashbook's total bank balance of Kshs.11,300,359.75 by unexplained and unreconciled difference of Kshs.18,456,119,840.25 as indicated :

Type	Financial Statements	Cashbook/Board of Survey	Bank Statement
Development	550,127,100.00	1,676,668.10	32,918,475.35
Recurrent	17,920,732,900.00	37,046.85.00	32,819,475.35
Deposits	3,439,800.00	11,263,312.90	11,263,312.90

Total	**18,474,299.80**	**11,300,359.75**	**48,803,835.60**

266. Cash Balances

The statement of financial position reflects a cash balance of Kshs.8, 540,500 which differs with the cashbook's total cash balance of Kshs.4, 090,450.45 by unexplained and unreconciled difference of Kshs.4, 450,049.55.

267. Deposit and Retentions

The statement of assets reflects a balance of Kshs.19, 787,545,800.00 in respect of deposits and retentions which differs with the trial balance amount of Kshs.490, 893,600.00 by unsupported, unexplained and unreconciled difference of Kshs.19, 296, 652, 200.00.

Committee Observations and Findings for Paragraphs 263 to paragraph 267

It was resolved that the Accounting Officer liaises with treasury and acquires the access code for the IFIMIS for the Financial Year 2014/15 and report to the Committee in 60 days from the day of this meeting. This report had reached the Committee at the time adopting this report.

PRISONS FARM REVOLVING FUND

Basis for Adverse Opinion

268. Debtors

The statement of financial position as at 30 June 2015 reflects a debtors balance of Kshs.189,490,028.00 which has been explained as debts for food ration supplied to the Commissioner General of Prisons. No reasons have been given by the Commissioner General for failure to collect the huge outstanding debt.

Committee Observations

The Committee marked the matter as resolved.

269. Suspense Account

The financial statements reflect a Kshs.15,639,561.44 as Suspense Account figure brought forward from the previous year which has not been supported with documentation and analysis. Consequently, the accuracy, validity and completeness of the Kshs.15,639,561.44 could not be confirmed.

270. PMG Balance

The Fund did not prepare monthly bank reconciliation statements for the year under review hence it was not possible to ascertain whether all bank transactions and bank balances were fairly stated. Further, the Kshs.51,697,291.80 PMG balance was not supported with a bank certificate. Consequently, it is not possible to confirm the accuracy of the cash and bank balances.

Other Matters

271. Internal Control

The Fund has a weak internal control system in place and irregularities or errors may have occurred which could not have been detected. My opinion is not qualified in respect of this matter.

PRISONS INDUSTRIES REVOLVING FUND

Basis for Disclaimer of Opinion

272. Debtors

Included in the statement for financial position debtors' figure of Kshs.44,448,964.08 as at 30 June 2015 are loans amounting to Kshs.5,819,720.75 due from the former Permanent Secretary Ministry of Home Affairs, District Commissioners, Officer Commanding Police Divisions, Commissioner of Police, National Youth Service, Military officers, Embu District Hospital and Commissioner of Prisons. Also included are old debts of Kshs.451,221.50 relating to old debts owed by private individuals some of whom have since passed on and Kshs.5,819,720.00 from government institutions with some dating back to the late nineties.

It was not clear how senior government officers were given goods on credit without valid contracts. It has not been possible to confirm if the Fund will be able to recover the amounts advanced. Any provision that would have been necessary in relation to this uncertainty has not been incorporated in these financial statements.

273. Suspense Account

There was no documentary evidence availed to support the Kshs.3,966,131.10 Suspense Account (2013 / 2014 Kshs.23,965,577.08) which is explained under note 10 to the financial statements as balancing figures where accounts were not in agreement.

274. Creditors Account

The financial statements reflect Kshs.61,137,546.00 against creditors which increased from the opening balance of Kshs.51,229,625.00 by Kshs.9,907,921.00. No explanation has been given for failure to pay creditors despite the fund reflecting huge bank balances.

Committee Observaton and Finding

The committee abstained from considering matters under the foregoing paragraphs whch are presently under the jurisdiction of Special Funds Committee pursuant to Standing Order 205 (a).

275. PMG Balance

The comprehensive statement of financial position as at 30 June 2015, reflects a PMG balance of Kshs.151,321,358.13 which differs with the board of survey report balance of Kshs.57,823,442.30 by an unexplained difference of Kshs.93,497,915.83. In addition, the bank certificate in support of the balance was not availed for audit review.

The Fund did not prepare monthly bank reconciliation statements for the whole year and hence, it was not possible to ascertain whether all bank transactions and PMG balances during the year under review were fairly stated.

Submission from the Accounting Officers

It was true that the comprehensive Statement of Financial position as at 30th June, 2015 reflects a PMG balance of Kshs.151,321,358.13 which differs with the Board Of Survey balance of Kshs.57,823,442.30 by an unexplained difference of Kshs.93,497,915.83.

He also stated that Farm and Industry Revolving funds operated one Bank account in Central Bank which was operated through IFMIS. The certificate required was shown in the Headquarter Financial Statements.

The certificate of Prison Industry Fund Account balance reflected in Headquarters hadKshs.21, 377,575.20. The PMG account had balances brought forward from previous years which had not yet been liquidated and were being followed up as explained in paragraph 257 above.

Committee Observation and finding

The Committee marked the matter was resolved after consideration of the submission from the Accounting Officer

276. Internal Control and Books of Account

The Fund has a weak internal control system in place and irregularities or errors may have occurred which could not have been detected and corrected. The Fund also has been operating during the year without maintaining proper books of account as required by the Public Audit Act, 2003. This made it impossible to establish and verify the sums of money received and expenditure incurred on account of the funds and the assets and liabilities of the fund for the period ended 30 June 2015.

Submissions from the Accounting Officer

It was true that Industry Revolving Fund may have weak internal Control Systems in operations. The State Department has enhanced the operations by putting in place two directorates in charge of the both Farm and Industries fund. The State Department was also in the process of separating the Prison Industry and Farm Bank accounts at the Central Bank to enhance cash movement controls.

Committee Observation and finding

The Committee marked the matter was resolved after consideration of the submission from the Accounting Officer

277. Non-maintenance of Fixed Assets Register

The statement of financial position as at 30 June 2015 reflects a fixed assets balance of Kshs.94,625,147.29 which includes machinery worth Kshs.73,559,400.12 and Kshs.2,926,440.00 of scrap machinery, most of which have since become obsolete. The management of the Fund did not maintain a fixed assets register. Consequently, it was not possible to confirm whether all fixed assets as reported in the statement of financial position physically existed or were correctly valued.

Submissions by the Accounting Officer

It was true that the Statement of financial position reflected a fixed assets balance of Kshs.94,625,147.29 which includes machinery worth Kshs 73,559,400.12 and Kshs 2,926,440.00 of obsolete scrap machinery.

The fund management is carrying out technical re-evaluation of its fixed assets. So far, 61 out of 93 stations have submitted their assets data worth Kshs.34,778,538.00 which forms part of the assets register. The remainder of thirty two stations are in the process of compiling.

The value of the prison motor vehicles was summarized. The Fixed Asset Register was availed to the Committee for audit verification.

Committee Observation and finding

The Committee marked the matter was resolved after consideration of the submission from the Accounting Officer

REVENUE STATEMENT - STATE DEPARTMENT FOR COORDINATION OF NATIONAL GOVERNMENT

Basis for Adverse Opinion

278. Late Submission of Statement of Revenue

The Statement of Revenue of the State Department for Coordination of National Government for the year ended 30 June 2015 was submitted for audit one and a half (11/2) months late on 19 November 2015 contrary to Section 4 (4) of the Public Audit Act, 2003 which required the department to prepare and submit the revenue statement for audit by 30 September 2015.

Submission by the Accounting Officer

It was true that the state Department submitted the statement of Revenue on 19th November 2015 instead of 30th September 2015. This was occasioned by the difficulties encountered in that prior to opening the revenue account with the Central bank; clients of betting control had banked in the bank account of the former Ministry of Home affairs account number at Kenya

Commercial Bank account No 1119438373 with an amount of Kshs, 38,976,401.00. Signatories' to the bank account had retired and by then the Ministry of Home Affairs had been merged with the office of the President to form the Ministry of Interior and Coordination of National Government thereby making it difficult to obtain Bank Statements for this account.

Additionally, an amount of Kshs.44,009,626.00 was deposited under Ministry of Interior and Coordination of National Government at Kenya Commercial Bank account No. 1119759730. Bank statements have been extracted by the State Department for Correctional Services from the State Department for Interior who were signatories to the account.

On 17th July 2014, the Central Bank of Kenya opened a bank account in the name of the State Department for Coordination of National Government account No 1000209593 where Kshs.105, 364,564.00 was banked. It was worth noting that the instructions on the operating of the revenue account were that the State Department could deposit and the amount swept the same day as per Central bank ref: CBK/BD/KRA/PMG-ACC/20/14 dated 18th July 2014 (Appendix XIII).

Committee Observations and findings

The Committee marked the matter as reolved.

279. Cash and Cash Equivalents

The statement of revenue reflects an amount of Kshs.188, 350,568.00 that has not been transferred or surrendered to the exchequer. Information available indicates that this amount as at 30 June 2015 was held in three bank accounts as detailed:

Bank	**Accounting No.**	**Amount in Kshs.**
Kenya Commercial Bank	1119438373	38,976,401.00
Kenya Commercial Bank	1119759730	44,009,626.00
Central Bank of Kenya	1000209593	105,364,540.00
Total		**188,350,568.00**

The department has not availed documentary evidence in form of bank certificates, bank statements and bank reconciliation statements to support the above balance. Under the circumstance, accuracy of the revenue statement of the State Department for Coordination of National Government could not be confirmed.

Submission by the Accounting Officer

It was true that the state Department was not able to submit bank Certificates, bank statements and bank reconciliation statements.

In this regard, we wish to state that revenue was being banked in three Bank accounts in 2014/2015 as mentioned in paragraph 278 due to merging of the Ministry of Home Affairs to Ministry of Interior and Coordination of National Government. However, the State Department has written to the National Treasury to facilitate access to the CBK 2014/ 2015 bank statements vide Ref No. SDC/FIN/6/1/VOL.V/45) dated 18th May 2018 (Appendix XIV). The State Department will submit the documents once the National Treasury is facilitated by the Central Bank of Kenya.

With the change of mode of operation where it is only the Central Bank that is mandated to collect the revenue, the task of operations has improved unlike the case where Commercial Banks were involved.

The State Department has also written to Kenya Commercial Bank Vide Ref No. SDC/FIN/6/1/VOL.V (46) dated 18th May, 2018 for facilitation with the bank statements for accounts nos. 1119438373 which belonged to the Office of the Vice-President and Ministry of Home Affairs and 1119759730 for the Ministry of Interior and Coordination of National Government. The two statements were availed to the Committee for verification

Committee Observation and finding

The Committee marked the matter as resolved.

280. Books of Account

The Department has a weak internal control system in place and irregularities or errors may have occurred which could not have been detected and corrected. In particular, the department did not maintain Cash Book, ledgers or prepare Trial Balances to support the Revenue Statement. Consequently, the accuracy of the revenue statement could not be confirmed.

Submission by the Accounting Officer

It was true that the Department has a weak internal control system in the revenue collection in terms of maintenance of cash books, ledgers and preparation of trial balances to support Revenue statement.

He further stated that the Department did not and had not been given a Budget item to collect Revenue and noting the net effect on Revenue received was the same amount swapped the same day to exchequer Account this resulted to total omission of the maintenance of the respective books. The department had recorded the collections in the Duplicate Cash book which was not availed to the Auditors at the time of Audit. Books were submitted to the Committee for verification.

Committee Observations and findings

The Committee marked the matter as resolved.

23.0. MINISTRY OF DEVOLUTION AND PLANNING

23.1. STATE DEPARTMENT OF PLANNING

FINANCIAL STATEMENTS FOR VOTE 135

Dr. Julius Muia, the Accounting Officer State Department of Planning accompanied by the Hon. Safina Kwekwe Tsung; Princila Secretary State Department of Gender, Mr. Philip Ndiritu; Senior Accountant, Mr. Osiri Nyakundi; Chief Finance Officer, Mr. Eric Mbeya; Deputy Director, Mr. C. T Muchiri; Director Administration, Ms. Priscila Njuguna; Accountant, Mr. Munelim M.; Economist Planning and Mr. Peter G. Karozi; Senior Accountant appeared before the Committee on 12th June, 2018, to adduce evidence on the audited Financial Statements of Vote 135 the State Department of Planning for the Financial Year 2014/2015 . Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

281. Prior Year Unresolved Audit Issues

281.1 Comparative Figures for 2012/2013

As reported in the previous year, the Ministry has still not provided summary by item to support the comparative figures for the previous years. Further, the Ministry has not resolved all issues that were raised in the previous Auditor-General's report for the financial year ending 30 June 2014 as indicated below.

281.2 Variances between Actual and Budget Figures

Under head – 103005300 Planning and Development – Headquarters, the Ministry spent Kshs. 1,964,426,798.00 as transfer to other Government Units which had not been budgeted for. The Ministry, therefore, did not adhere to the budgetary provisions and no explanations and mitigating measures were provided.

Submission by the Accounting Officer

The accounting officer admitted that it was true that under Head – 103005300 planning and Development Headquarters, the Ministry spent Kshs. 1,964,426,798.00. This was however not a transfer but expenditure incurred under the Ministry of Devolution and Planning in relation to Urban Development Department.

The budgetary allocation for the Urban Development Department formally under the Ministry of Local Government was under the Ministry of Devolution and Planning budget. When the Executive Order No. 2 of 2013 on the Organization of the Government was endorsed, Urban Development Department was transferred to the Ministry of Lands and Urban Development. Consequently, in FY 2013/14 supplementary estimate, the allocation to Urban Development Department was removed from Ministry of Devolution and Planning budget to Ministry of Lands and Urban Development.

However, when supplementary budget was approved by Parliament half of the allocation for the Urban Development that was accessible by the Ministry had already been spent. Consequently, the expenditure of 1,964,426,798.00 was left hanging in the ministry's books without a corresponding budget amount. Attached is vote book, showing original budget and vote book showing supplementary budget

Committee Observation and Finding

The Committee observed that the realignment and re-organization of government has always been a cause of several fund transfers to other government departmnts causing delay in delivery of service or payment of services delivered.

Committee Recommendation

The Executive Office of the President must put in place measures for seamless transition when restructuring government departments.

281.3 Incomplete Construction Project

The Ministry awarded a tender for the construction of proposed flats at National Youth Service (NYS) Vocational Training Institute-industrial area at an estimated cost of Kshs.49, 105,721.10. The contract between the Ministry and the contractor was signed on 22nd February 2013 and was estimated to take 52 weeks from 8th April 2013 to 07 April 2014. The contractor was paid certificate No. 1 for Kshs. 7,111,432.26. Physical verification carried out on 17 February 2015 showed that the work was abandoned at foundation level. Information on site meetings or other management meetings were not provided for audit. This project therefore appears to have stalled.

Submission by the Accounting Officer

The accounting officer admitted that it was true that the contract was awarded by Ministerial Tender Committee (MTC) on 18th January, 2013 vide Minute No. 8/8/2012/2013. The contract was signed on 22nd February 2013 between the Principal Secretary Ministry of Youth Affairs and Sports and the contractor at a sum of Kshs. 49,105,721.10.

A site meeting was held on 20th September 2013 attended by the Project Manager, NYS officers and the contractor. During the site meeting it was noted that the contractor had completed foundation trenching and infilling at 100% and foundation walling and hardcore filling and ground slab casting. The general completion rate was put at 14% of the works and it was certified that the contractor thus be paid Kshs. 7,111,432.26 under the minute item 1:100 of the said meeting.

The Contractor abandoned the works and the contract was terminated vide letter Ref. No. No. MDP/1/3/41 dated 8/11/2013 to pave way for re-advertisement for a new contractor.

National Youth Service re-advertised for the construction on 8th April 2016. However, the tendering amounts were beyond the budget and hence no contract was entered into. The Ministry wrote to Ministry of Transport, Housing and Urban Development vide Ref. NO. NYS/PROJ/B/1/2/9(16) of 23rd August 2017 and a reminder Ref. No. NYS/PROJ/8/1/2/9 (18) of 18th December 2017 for validation of estimate of project cost (A copy of a letter to Ministry of Transport, Housing and Urban Development Ref. No. NYS/PROJ/8/1/2/9 (16) dated 23rd August 2017 from Ministry of Public Service, Youth and Gender Affairs is attached).

The NYS is committed to completing the project in financial year 2018/2019 and will re-advertise for the construction, having got validation from the Ministry of Transport, Infrastructure, Housing and Urban Development, State Department of Public Works vide their letter Ref. No. CQS/D103/GEN/VOL.I/67 of 9th January 2018 for Kshs.61,936,303.80. The increase from the original contract sum of Kshs.49,105,921.10 was attributed to revised Bill of Quantities for works that were not included in the initial documentation.

Committee Observation

1. **That the project was abandoned at the foundation level;**
2. **14% of the total cost had already been paid to the contractor;**
3. **Project cost had increased by 26% from Kshs.49,105,921.10 to Kshs.61,936,303.80**
4. **The Committee was concerned that the project may increase even further and that the Government may spend more money at the expense of the taxpayer**

Committee Recommendation

The National Construction Authority should develop measures to ensure a Contractor once entered into contract cannot abandon it before completion of works.

281.4 Unconfirmed Transfer to other Government Entities

The financial statements of the Ministry reflects recurrent and development combined transfer to other Government entities of Kshs. 2,871,368,369.00 which was not budgeted for. This amount includes Kshs. 2,151,010,210 reflected in the financial statements as transfer to Ministry of Lands, Housing and Urban Development which has not been supported. Consequently, the accuracy of figure could not be confirmed.

Submission by the Accounting Officer

The Accounting Officet submitted that it was true the financial statements of the Ministry reflect recurrent and development combined transfer to other Government entities of Kshs. 2,871,368,369.00. Kshs. 2,151,010,210 reflected in the financial statements as transfer to Ministry of Lands, Housing and Urban Development was for expenditure incurred by the Ministry of Devolution and planning for both development and recurrent vote in relation to the department of urban development before their budget of Kshs. 4,841,107,996.00 was transferred to the Ministry of Lands under the supplementary estimate 1 of 2013/14 as per the executive order no. 2 of 2013.

Committee Observation and Finding

The Committee marked the matter as resolved.

282. Variance in Disbursements to Semi-Autonomous Government Agencies (SAGAS)

Included in the statement of receipts and payments Kshs. 36,779,590,639 transfers to other Government Entities' figure are differences between the amounts disbursed by the Ministry and the amounts received during the year under review by various SAGAS as indicated below;

Under received Entity	**Amount disbursed (kshs)**	**Amounts received by Entity (kshs)**	**Under (Kshs)**
Anti FGM Board	38,783,380.00	28,987,486.20	9,795,893.00
National Youth Council	31,317,420.00	14,792,895.00	
NEPAD Kenya Secretariat	297,082,173.00	220,155,401.00	76,926,772.00
President's award scheme	19,829,000.00	0	19,829,000.00
Uwezo Fund	390,000,000.00	342,500,000.00	47,500,000.00
Youth Enterprise Fund	329,824,800.00	233,538,800.00	96,286,000.00
Total	**1,106,836,773.00**	**839,974,582.20**	**266,862,190.00**

Over Received			**(Kshs)**
NGO Coordination Board	136,487,500.00	178,478,500.00	(41,991,000.00)
Women Enterprise Fund	130,572,500.00	168,912,500.00	(38,340,000.00)
Total	**353,415,478.00**	**640,020,219.00**	**(80,331,000.00)**

The accounting officer has not provided justifications for these irregularities. Consequently, it was not possible to confirm the accuracy or validity of the Kshs. 36,779,590,636 payments to Government entities as reflected in these financial statements.

Submission by the Accounting Officer

Anti – FGM Board

The Accounting Officer submitted that the approved budget in the 2014/2015 financial year was Kshs. 42,000,000.00. At the beginning of the FY 2014/2015, the Anti FGM Board did not have a Bank Account and the boards expenditure amounting to Kshs 9,795,893 was incurred at the Ministry Headquarters.

The Account was operational in the second quarter of the FY 2014/2015 and a total of Kshs. 28,987,486.20 was disbursed to the Anti-FGM. Authority to open bank account from National Treasury,

National Youth Council

That the NYC had an approved budget of Kshs. 34,200,000.00. The Agency received Kshs 14,792,895, the balance of Kshs 16,524,525 was spent at the Ministry headquarters since the National Youth Council did not have a bank account at the beginning of the financial year. The authority letter for opening bank account,

NEPAD Kenya Secretariat

NEPAD Secretariat had an approved budget of Kshs. 105,165,000 on the Recurrent Vote in the Financial Year 2014/15 as the current grant. Given the resource constraints the ministry had identified four key priority areas. Among them was Transforming public service delivery through Huduma Centres, Rationalization programme and the governance indices monitoring. Consequently, the Ministry got an addition Kshs. 200 million under the development vote to develop governance Indices these funds were captured under the Macro and international budget head.

These funds were meant for tracking, monitoring and reporting on indicators including but not limited to doing business, corruption perception that has impact on performance ranking of the country, review a governance self-assessment tool for APRM, Review Public Benefits Organinization Act and engagement of 6 consultants to provide consulting services to the Ministry on Governance Indices. All these activities were done by the Ministry in collaboration with the SAGAs affiliated to the Ministry.

President's Award Scheme

The accounting officer admitted that it was true that the auditor reported that the ministry disbursed kshs.19, 829,000 and got no record of what the scheme received. The management has attached a confirmation letter from the scheme. It's important to note that the scheme is not self-reporting and disbursements are through the ministry where it is domiciled. This amount could not be verified from the SAGA as it was domiciled as a unit in the ministry of education and hence there was no financial statement to confirm the receipt of disbursements. Attached fine the confirmation letter from the CEO.

Uwezo Fund

The Uwezo fund had an approved budget of Kshs. 190,000,000 in the recurrent vote and Kshs. 200,000,000 in the Development vote totaling to Kshs. 390,000,000. The board only received Kshs. 342,500,000 leaving a balance of Kshs. 47,500,000. This amount had inadvertently been disbursed to YEDF (Youth Enterprise Development Fund). The same was recovered from the disbursement to YEDF and disbursed to Uwezo fund in the subsequent FY 2015/2016 as explained in response for query number 112.

Analysis of disbursement to Uwezo Fund is as under.

Date	**Amount (Ksh.)**
20/8/2014	100,000,000.00
20/8/2014	47,500,000.00
27/1/2015	47,500,000.00
27/1/2015	50,000,000.00
27/1/2015	50,000,000.00
27/1/2015	47,500,000.00
Total	**342,500,000.00**

Youth Enterprise Development Fund (YEDF)

Analysis of disbursement to the SAGA is as follows:

Date	**Amount (Ksh.)**
27/1/2015	56,000,000.00
27/1/2015	31,475,000.00

12/8/2014	112,244,400.00
14/4/2015	35,411,000.00
3/11/2014	47,500,000.00
14/4/2015	56,244,400.00
Total	**338,874,800.00**

The State department and the SAGA agreed on this amount.

After reconciliation with the YEDF, the SAGA confirmed that the receipt of ksh.233, 538,800 was for recurrent operations only. The development amount of kshs. 105,336,000.00 was reported in the financial statements as capital grants amortized.

NGO Coordination Board

In 2014/2015 financial year the NGO coordination board had a budgetary allocation of Kshs 150,525,000 for both development and recurrent. Come supplementary the budget was reduced to Kshs 145,831,875. The Ministry of Devolution and Planning disbursed Kshs. 136,487,500.00. The difference was a spillover from the financial year 2013/2014 that was disbursed in July at the closure of the financial year. This disbursement was reported as a receipt for FY 2014/15 whereas it related to receipt for FY 2013/14

Analysis of disbursement is as follows:

Date	**Amount (Ksh.)**
21/10/2014	27,787,500.00
16/8/2014	2,687,500.00
17/12/2014	10,000,000.00
14/4/2015	27,787,500.00
8/1/2015	27,787,500.00
15/8/2014	27,750,000.00
8/11/2015	12,687,500.00

Total	**136,487,500.00**

The excess amount of ksh.41,991,000 was internally generated revenue(A.I.A).confirmed by extract of audited financial statement from the board

Women Enterprise Fund

It was true that ksh.168,912,500 was disbursed to the fund.

Analysis of disbursement is as follows:

Date	**Amount (Ksh.)**
20/8/2014	3,805,500.00
20/8/2014	38,450,000.00
2/2/2015	3,805,500.00
16/4/2015	38,450,000.00
8/1/2015	3,805,000.00
2/2/2015	38,450,000.00
7/12/2015	38,450,000.00
20/4/2015	3,696,000.00
Total	**168,912,500.00**

The State department would like to confirm that this amount has been reconciled between the State department and the SAGA.

Committee Observations and findings

The Committee marked the matter as resolved.

283. Un Surrendered Imprest

The financial statements as at 30 June 2015 and as disclosed under note 16 reflects un-surrendered imprests totaling Kshs. 6,479,671. Some of the imprests have been outstanding for over six months and some employees were issued with more than one imprest prior to surrendering the previously issued imprests contrary to Public Financial Management Act and prevailing financial regulations. The Accounting Officer has not provided justification for this irregularity.

Submission by the Accounting Officer

The imprest was surrendered.

Committee Observations

The Committee marked the matter as resolved

284. Cash and Cash Equivalent

As reflected under note 14 to the accounts, the deposit bank reconciliation statement reflects a cash book bank balance of Kshs. 173,247,962 and receipts in bank statements not in cash book amounting kshs. 7,467,757. Also the recurrent bank reconciliation statement reflects amounts totaling Kshs. 93,951.40 as receipts in the bank statements not in the cash book. Similarly, the development statements reflect receipts in bank of Kshs. 5,596,290 not in cash book and payments of Kshs. 10,254,055.50 in bank not in cash book. In consequence, all the above amounts have been excluded from the financial statements bank balances and the cash transactions. Under the circumstances, the accuracy of the Kshs. 181,899,223 bank balance as reflected in the statements of financial position could not be confirmed.

Submission by the Accounting Officer

The accounting officer admitted that it was true that as reflected under note 14 to the accounts, the deposit bank reconciliation statement reflects a cash book bank balance of Kshs. 173,247,962 and receipts in bank statements not in cash book amounting Kshs. 7,467,757. Also, the recurrent bank reconciliation statement reflects amounts totaling Kshs. 93,951.40 as receipts in the bank statements not in the cash book. Similarly, the development statements reflect receipts in bank of Kshs. 5,596,290 not in cash book and payments of Kshs. 10,254,055.50 in bank not in cash book. However, the three cash books were reconciled and the cash book balances and bank balances agreed.

Committee Observations

The Committee marked the matter as resolved.

285. Acquisition of Assets

The Kshs. 11,408,248,185 expenditure on acquisition of assets and as detailed under note 13 to the accounts has not been supported with information and documentary evidence including procurement tender documents. The Department explained that the documents were with investigating agencies dealing with fraud and therefore it had not been possible to confirm the adequacy of the procurement procedures and control in relation to all the procurements.

In view of the foregoing, the propriety of the Kshs. 11,408,248,185 expenditures could not be confirmed and it is doubtful that the government got value for money of these expenditures.

Submission by the Accounting Officer

The accounting officeradmitted that it was true that the Kshs. 11,408,248,185 had not been supported with the information and documentary evidence since the documents are still with the investigating agencies.

Committee Observation and finding

The Committee observed that the matter was unresolved.

Committee Recommendation

The EACC and DCI should endeavor to clear the backlog of pending investigations related to misuse or mismanagement of public funds so as to prosecute.

286. Pending Bills

Records maintained by the State Department for Planning indicated that bills totaling Kshs. 7,261,076,350 were not settled during the year 2014/2015 but were instead carried forward to 2015/2016. Had the bills been paid and the expenditure charged to the account for 2014/2015, the statement of receipts and payments for the year would have reflected an increased deficit of Kshs. 7,473,895,922 instead surplus of Kshs. 212,819,572 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 have to be charged.

Submission by the Accounting Officer

The accounting officer admitted that it was true that records maintained by the State Department for Planning indicated that bills totaling Kshs. 7,261,076,350 were not settled during the year 2014/2015 but were instead carried forward to 2015/2016. Out of the Kshs. 7,261,076,350 pending bills, Kshs. 5,539,801,868.10 was settled in 2015/2016 financial year leaving a balance of Kshs. 1,721,274,481.90 which was paid in financial year 2016/17. Please also note that payment of pending bill would not have resulted to deficit in statement of receipts and expenditure since payments are made against exchequer releases after requisitioning from the national treasury. The state department had a surplus in the appropriation summary.

Committee Observations

The Committee marked the matter as resolved.

Other Matters

287. Unrecovered Loans in Mt. Elgon Sub-County-Uwezo Fund

Information and records available indicates that Mt. Elgon Sub-County was allocated and disbursed funds totaling Kshs. 21,265,000 to be distributed to various youth groups. These funds are expected to attract interest and be recovered on a monthly basis. However, Kshs. 1,772,083.33 which was due as at 30 June 2015 remained unrecovered and no justification has been provided for this anomaly.

Submission by the Accounting Officer

It was true that Mt. Elgon Sub-County was allocated and disbursed funds totaling Kshs. 21,265,000 for distribution to various youth groups. These funds were expected to attract interest and be recovered on a monthly basis. As at 30 June 2015, Kshs. 1,772,083.33 which was due for recovery remained unrecovered of the delayed loan repayment by various youth groups due to business challenges. This money has since been recovered.

Committee Observations

The Committee marked the matter as resolved.

288. Budget and Budgetary Controls

The Department did not adhere to the approved budget in some expenditure items during the year, hence an under expenditure of Kshs. 9,916,658,628. Although the accounting officer had as detailed below explained that the reason for the under expenditure was due to delays in the release of the exchequer by the National Treasury, there was no indication as to the measures put in place to address the underlying causes of the under-expenditure.

Variance between actual and Budget Figures

Item	Actual (Kshs)	Budget (Kshs)	Variance (kshs)	% Variance
Utilities, supplies and services	136,687,678	199,243,525	62,555,847	31.40%
Communication, supplies and services	73,865,639	103,411,803	29,546,164	28.57%
Domestic travel and subsistence and other transportation costs	232,4921,890	302,411,803	69,919,913	23.12%
Foreign travel and subsistence and other transportation costs	54,777,559	85,180,800	30,403,241	35.69%
Printing, advertising and information supplies and services	99,54,581	150,173,563	50,608,982	33.70%

Fuel Oil and lubricants	806,861,140	2,167,666,184	1,360,805,044	62.78%
Rentals of produced assets	1,158,110,670	2,207,235,042	1,049,124,372	47.53%
Insurance costs	37,903,272	87,562,538	49,659,266	56.71%
Training expenses	328,170,200	496,332,821	168,162,621	33.88%
Acquisition of Assets	11,408,248,185	16,231,981,934	4,823,733,749	29.71%
Specialized materials and supplies	2,179,594,327	3,245,291,903	1,065,697,576	32.84%
Office and General supplies and services	170,086,634	311,231,344	141,144,710	45.35%
Other Operating expenses	567,937,229	858,446,644	290,509,415	33.84%
Routine maintenance vehicles	41,666,756	70,465,347	28,798,591	40.87%
Routine maintenance other assets	257,358,100	441,737,745	184,379,645	41.74%
Hospitality supplies and services	1,074,669,411	1,286,278,909	211,609,498	16.45%
Total			**9,616,658,628**	

Submission by the Accounting Officer

The following measures have been put in place to address the underlying causes of the under-expenditure.

- Consultations with the National Treasury on timely release on exchequer has been initiated.

Committee Observation

The Committee marked the matter as resolved.

289. Weak Internal Controls

The ministry has a weak internal control system in place and irregularities or errors may have occurred which may not be detected.

Submission by the Accounting Officer

Internal audit department has been reviewing any shortcomings in the existing internal control systems with a view to advising management on various improvements.

Committee Observations

The Committee marked the matter as resolved.

COMMUNITY EMPOWERMENT AND INSTITUTIONAL SUPPORT PROJECT (CEISP)

290. Stolen Vehicle - GKA 661Y

As previously reported, a motor vehicle registration No. GKA 661Y (White) Isuzu D Max valued at Kshs. 1.611, 200.00 was stolen on 8th April 2013 through violent robbery. However, the Ministry has not provided progress report on the loss of the motor vehicle.

Submission by the Accounting Officer

The Ministry through the project concurs with your finding and hereby states as follows: As stated the GK A661Y was stolen and reported at Embakasi Police Station vide OB number 152/140/13. See copy of police abstract attached. On following up with the police, the Project Coordination Unit was informed that the investigation had been lodged. According to the officer investigating the matter, the vehicle had not been traced/recovered by 9th September 2014. Thereafter, the Ministry wrote to Inspector General seeking for assistance on the way forward on the case before closure of the project. See attached copy Ref. MPND/13/3/3/29 of 11th May, 2015.

The project had two remaining vehicles registration NO. GK A46Y-Toyota Avanza and GK B 605B – Terrios (Daihastu) and 106 motor cycles. The vehicles were insured by CIC insurance company as per the attached insurance. As for motor cycles and ICT equipment, they were insured by Jubilee Insurance Company as per the attached schedule. The vehicles were also fitted with car tracking devices by River Cross tracking limited as per attached certificates. All the other assets were branded and offices fitted with smoke detectors and burglar proof doors as well as fenced isolated offices to enhance security. The vehicle has not been recovered to date.

A follow up on the issue had been done vide letter…

Committee Observations

The investigations had taken so long to conclude on a simple matter of theft of a government vehicle fitted with tracking system.

291. Unsupported Payments

The acquisition of assets figure of Kshs. 479,344,787 as reflected under Note 8.6 to the financial statements includes payments totaling to Kshs. 4,656,350.50 in respect to buildings construction that are not supported with the relevant documentary evidence.

Submission by the Accounting Officer

It was true the acquisition of asset worth ksh.4, 656,350.50 was not supported. This expenditure was for donor funded activities and the vouchers have been availed to auditors.

Committee Observations

The Committee marked the matter as resolved.

23.2. STATE DEPARTMENT FOR DEVOLUTION

FINANCIAL STATEMENTS FOR VOTE 136

Mr. Nelson Marwa, the Accounting Officer, State Department of Devolution accompanied by Mr. Kennedy Okeyo; Chief Finance Officer, Mr. James Mwanzia; Director, Policy and Research, Mr. Patrick Ojwang; Principal Internal Auditor, Ms. Jane Kirop; Chief Accountant, Mr. Moses Macharia; Senior Accountant, Mr. Maurice Ogolla-Deputy Director, Policy and Research, Mr. Jackson Owuor; Finance Officer, Ms. Anne N. Mwangi; Legal Officer and Mr. Salim Kuti Assistant Accountant Generalappeared before the Committee on 13th July, 2018, to adduce evidence the audited Financial Statements of Vote 136 the State Department of Devolution for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

292. Pending Bills

The State Department for Devolution as at 30 June 2015, reported pending bills amounting to Kshs.3, 028,638,103. The Department did not provide measures to be taken on how to clear these bills. Further, had the bills been paid and the expenditure charged to the accounts for 2014/2015 the statement of receipts and payments for the year would have reflected an excess vote (deficit) of Kshs.2, 929,909,333 instead of the surplus of Kshs.98, 728,770 now shown. Failure to settle pending bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submissions by the Accounting Officer

It was true that the State Department for Devolution had pending bills amounting to **Ksh.3,028,638,103** analyzed as follows;

1. CILOR (Contribution in Lieu of Rates) Kshs 2,813,832,324

These were debts owed to the defunct Local authorities by the Central Government in relation to Government properties which were in the jurisdiction of the defunct local authorities. The central Government was unable to pay due to budget constraints over the years. This led to the accrual and high interests to the figures indicated. In the new dispensation, the Transition Authority were mandated to audit and verify the assets and liabilities of the Defunct Local authorities a task that was not completed during the transition period. This was later taken over by the Inter-Governmental Relations Technical Committee, an exercise which is still ongoing vide gazette notice No. 4370. Once the exercise is complete, IGRTC will determine the amounts payable. As such the Pending Bills relating to CILOR could not be settled

1. **Kenya Railways-Construction Muthurwa Market Kshs 105,000,000**

The bills were inherited from the defunct Ministry of Local Government but have not been cleared due to budgetary constraints. Requests to the National Treasury for budgetary allocation to defray the bills have, however been unsuccessful.

Other pending bills relating to 2014/15 FY for supply of goods and services. Kshs 109,805,779

Kshs 91, 513,548 of the bills has so far been paid, leaving a balance of **Ksh18,287,775** which relates to compensation arising from legal suits. The State Department has sought budgetary allocation from the National Treasury for clearance of the bills

Measures taken to address the Pending Bills

Going forward, the State Department has planned to clear the bills by:

- Establishing County Asset and Liability Committees through gazette notice No. 4370 to verify the assets and liabilities of the defunct local authorities and thus determine the authenticity of the CILORs. Arising from the gazette notice the Accounting Officer has appointed County Assets and liabilities committee that will embark on the exercise.
- Seeking budgetary support from the National Treasury through special requests and the Medium Expenditure framework (MTEF);
- In FY 2018/2019 The State Department for Devolution has allocated Kshs 10,800,000 towards the clearance of the legal pending bills.

Committee Observations and Findings

1. **The committee observed that the pending bills have not been cleared.**
2. **The query remains unresolved**

Committee Recommendation

The Accounting officer must at all times avoid accumulating pending bills in any financial year since they form a first charge in the subsequent financial years budget thereby impeding smooth implementation of the subsequent budget.

293. Outstanding Imprests – Staff Imprests

As reflected in the financial statements as at 30 June 2015, and as disclosed under note 12 to the financial statements, is an outstanding staff imprest of Kshs.2,369,962.00 which ought to have been cleared or surrendered on or before 30 June 2015. Some of the employees have been issued with more than one imprest, while other imprests have been outstanding since 2011, 2009 and 2008. As at the time of audit The State Department of Devolution had not recovered the same. This is contrary to financial regulations in place.

Submission by Accounting Officer

The accounting officer admitted that it was true that outstanding Imprests of Kshs. 2,369,962.00 was reported at 30th June 2015. Out of this amount, Imprest amounting to Kshs 490,185.00 have been surrendered/recovered. A balance of Kshs 1,879,777 is still outstanding. This comprises of Imprest that could not be recovered amounting to Kshs 169,830 due to the death of 3 officers. A letter has been written to National Treasury to seek authority to write them off.

Other officers went on transfer and whose imprest amounted to Kshs 1,709,947.00. Letters have been written to respective ministries/departments to have deductions effected from their salaries for the purpose of recovering these Imprests.

The State Department for Devolution has since taken measures and controls to ensure that there is no issuance of more than one imprest to officers with outstanding imprests.

Committee Observation and Finding

Officers were being issued imprest in contravention of the Public Finance Management Regulations which require that an imprest holder must make returns of the same within seven days after the return to work station

Committee Recommendation

Accounting Officer must always ensure that Public Finance Management Act 2012 is adhered to by all officers.

294. Cash and Cash Equivalents

The deposits bank reconciliation statement as at 30 June 2015 reflects receipts in bank statements not in cash book of Kshs.767, 624.05. Similarly, the recurrent bank reconciliation reflects receipts in bank and not in cash book of Kshs.129, 524.90 and payments in bank not in cash book of Kshs.1, 129,129,031.00. Some of these payments were for periods over six months. No reason has been provided for failure to update the cashbook with these reconciling amounts. Consequently, the accuracy of the cash & cash equivalents balance of Kshs.300, 296,693 could not be confirmed.

Submissions by the Accounting Officer

The accounting officer admitted that it was true that the necessary adjustment had not been done at that time. However, the cash book has been adjusted and reconciled and evidence submitted to the Committees.

Committee Observation and Finding

The Committee marked the matter as resolved.

Emphasis of Matter

295. Other Capital Grants and Transfers

I draw attention to note 7 to the financial statements. An amount of Kshs.2, 302,761,682 in respect of other capital grants and transfers could not be confirmed due to the implementing agencies not submitting returns of expenditure and receipts from donor funds that were not captured in IFMIS. My opinion is not qualified in respect of this matter.

Submissions by the Accounting Officer

It was true the amount of Kshs. 2,302,761,682 could not be confirmed due the lack of expenditure returns and receipts from NDMA Donor funds (A-in -A). Instead only a letter confirming receipt of A-in-A amounting to Kshs. 3,637,588,730 collected was reported without a break down prompting the State Department to capture the full amount as per the budget. Similar letter was issued on 18th February, 2015.

Committee Observations and Findings

The Committee marked the matter as resolved.

296. Unfunded Authority to Incur Expenditure (AIE) Kshs.24, 854,629.00

During the year, the project received four Authorities to Incur Expenditure (AIEs) totaling Kshs.144, 427,629.00. However, the bank statement made available reflect an amount of Kshs.119, 573,000.00 leaving a difference of Kshs.24, 854,629.00 unfunded. The project might not meet its budgetary target due to underfunding. My opinion is not qualified in respect of this matter.

Submissions by the Accounting Officer

It was true that during the year the Project Headquarter did issue AIEs totaling to Kshs 144,427,629.00 to Teso Sub County as tabulated below:

S/NO	AIE REF. NO	AMOUNT (KSHS)
1.	411345	61,152,929.00
2.	411312	43,573,000.00
3.	411389	8,801,700.00
4.	411370	30,900,000.00
	TOTAL	**144,427,629.00**

The project did release funds for financing the AIE's as follows:

S/NO	DATE	AMOUNT
1.	13/08/2014	18,000,000.00
2.	10/07/2014	20,000,000.00
3.	17/10/2014	43,573,000.00
4.	31/03/2015	8,000,000.00
5.	28/05/2015	30,000,000.00
	TOTAL	**119,573,000.00**

Thus, resulting to unfunded AIE totaling to Kshs 24,854,626.00

The closing balance for the cash book for Teso sub County was Kshs 2,655,322.50. The disbursement of the remaining balance was done exhausting the earlier disbursed amount. Thus, the reason for not releasing the other trench was because the station had not exhausted the amount they had received.

The project did meet its obligation as envisaged in the project designs before the project was wound up in 30th June 2016. Copies of the audited accounts are available.

Committee Observation and Finding

The Committee marked the matter as resolved.

NATIONAL HUMANITARIAN FUND

Basis for Qualified Opinion

297. Cash and Cash Equivalents

297.1 As reported in the previous year, the receivables imprest and advances balance of Kshs.998,552,086.38 as at 30 June 2015 includes Kshs.7,948,611 representing Authority to Incur Expenditure (AIEs) issued to various Government Agencies during the year. Consequently, any expenditure relating to the current year in respect of these AIEs have been excluded in these financial statements.

Submissions by the Accounting Officer

It was true that the expenditure returns for Kshs 7,948,611 representing Authority to incur expenditure (AIEs) had not been received. The same was received and the expenditure captured. Copies of the financial statements extracts for 2015/16capturing the details was shared with the Committee.

Committee Observations and Findings

The Committee marked the matter was resolved after consideration of the submission from the Accounting Officer

297.2 During the financial year 2014/2015 the repatriated Kenyan refugees in Uganda were paid Kshs.100, 000 for households of up to three people and Kshs.150, 000 for households of four people and more. As in the year 2013/2014 all the IDPs were paid a flat rate of Kshs.400, 000. No satisfactory explanation has been provided for the variances in the payout rates to the refugees.

Submissions by the Accounting Officer

During the period 2013/2014, all IDPs were paid Kshs 400,000 per household. However, due to budgetary constraints, the National Consultative Coordination Committee on Internally Displaced Persons (NCCC), the body mandated to handle all matters relating to internal displacement in the country resolved during their meeting held on 26th February 2015 that IDPs returning from Uganda be paid between KSHS 100,000 to Kshs 150,000 per household. Consequently, all IDPs repatriated from Uganda were paid in accordance with the NCCC resolution.

It was important to note that the IDPs repatriated from Uganda, received additional assistance from the United Nations High Commissioner for Refugees, the Kenya Red Cross Society and other well-wishers including the International Organization for Migration. Thus, there was no discrimination and therefore no violation of Chapter 4 of the Constitution of Kenya 2010 on the Bill of Rights.

Committee Observations and Findings

The Committee marked the matter as resolved.

24.0. MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

24.1. STATE DEPARTMENT OF EDUCATION

FINANCIAL STATEMENTS FOR VOTE 139

Dr. Belio Kipsang, the Accounting Officer for Vote 139, State Department of Education accompanied by Mr. Andrew Rukaria, Director Administration; Mr. Joseph Mbugua, Human Resource Manager; Ms. Khadia Gala, Senior Chief Finance Officer; Ms. Virginia Kinyua, Finance Officer; Mr. Humphrey Masai, Accountant; Mr. Paul Kibet, Director Secondary Education; Mr. Robert Osaro, Senior Principal Finance Officer; Mr. Emilio Mukira, AAG and Mr. Martin Kuugavis, ADE appeared before the Committee on 4th and 19th October 2018, to adduce evidence on the audited Financial Statements of Vote 139 the State Department of Education for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

304. Unauthorized Expenditure

The statement of receipts and payments for the year ended 30 June 2015 reflects proceeds from domestic and foreign grants receipts of Kshs. 1,521,514,353 which, according to note 2 to the financial statements are grants received from bilateral donors. Included in this figure are actual development proceeds under Head 0015 - Directorate of Basic Education and Head 0025 - Secondary and Tertiary Education Headquarters Administrative Services of Kshs.778, 614,510 against respective approved budgetary provision of Kshs.770, 000,000. This resulted in an excess expenditure of Kshs.8, 614,510. No evidence of Treasury approval for the budgetary reallocations was availed for audit review. The Ministry was therefore in breach of Government Financial Regulations which require that all expenditure should be within the approved budget.

Submission by the Accounting Officer

He admitted that a comparison between the approved estimates and the actual expenditure for the year ended 30th June, 2015 under development expenditure vote reveals that, the actual expenditure for heads '0015' and '0025'a total of Kshs. 778,614,510 exceeded the respective approved budget of Kshs. 770,000,000, giving a variance of Kshs. 8,614,510.

He submitted that the over expenditure of Kshs. 8,614,510 was as a result of reduction in supplementary budget of Kshs. 120,000,000. This was in relation to ICT capacity development under the Directorate of Basic Education, and Laboratory material supplies and small equipment under the Directorate of Secondary and Tertiary Education respectively. The payments had been processed before the budget reductions. Extracts from the supplementary budget estimates book and the vote book extract before and after loading the Supplementary Estimates that resulted into over expenditure were provided for verification as follows:

1. Supplementary budget estimates book
2. IFMIS Vote Book Report Before supplementary (Recurrent and Development)

3. IFMIS Vote Book Report After supplementary (Recurrent and Development)

Committee Observations and Findings

1. **A comparison between the approved estimates and the actual expenditure for the year ended 30th June, 2015 under development expenditure vote reveals that, the actual expenditure for heads '0015' and '0025'a total of Kshs. 778,614,510 exceeded the respective approved budget of Kshs. 770,000,000, giving a variance of Kshs. 8,614,510.**
2. **The Committee marked the matter as resolved.**

305. Compensation of Employees

The statement of receipts and payments reflects compensation of employees' figure of Kshs.3, 249,040,298 which includes an amount of Kshs.3, 168,540,763 in respect of salaries and allowances related to permanent employees. However, a review of the Ministry's accounting records and payroll expenditure as per budget heads indicates that Kshs.3, 166,839,035.55 was utilized for the compensation of permanent employees. The resultant variance of Kshs.1, 701,727.45 has not been reconciled.

Further, note 8 to the financial statements reflects an amount of Kshs.69, 549,251 under basic wages of temporary employees. However, the Ministry's payments records availed for audit review reflected an amount of Kshs.32,908,000.00 resulting in a difference of Kshs.36,641,251.00 which has not been reconciled or explained. In the circumstances, it has not been possible to confirm the propriety of the expenditure totaling Kshs.38, 342,978.45.

Submission by the Accounting Office

He admitted that the statement of receipts and payments reflects compensation to employee figure of Kshs. 3,249,040,298 which includes an amount of Kshs. 3,168,540, 763. This was in respect to Salaries and allowances related to permanent employees, Kshs. 3,166,839,035.55 was utilized for compensation of permanent employees.

He reported that the variance of Kshs. 1,701,727.45 in the Ministry's accounting records and payroll expenditure (IPPD) was as a result of unreconciled payments made manually through vouchers. The Payment voucher and payee details and other documents are annexed for your review.

He submitted that the unreconciled amount of Kshs. 36,641,251.00 in respect to expenditure on basic wages was as a result of AIE's issued in respect of salaries for Part Time Adult Education Teachers. We have received returns in respect of the same for thirty-four (34) counties (as per list and returns attached) amounting to Kshs. 36,634,000.00. Copies of the returns were availed for review.

Committee Observations and Findings

The Committee observed that the variance of Kshs. 1,701,727.45 in the Ministry's accounting records and payroll expenditure (IPPD) was as a result of unreconciled payments made manually through vouchers.

Committee Recommendations

1. **The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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;**
2. **The matter remained Unresolved**

306. Inaccuracies in the Financial Statements

The statement of cash flow reflects the following opening balances which differ with the corresponding certified closing balances reflected in the restated financial statements for the year ended 30 June 2014 as shown below:

	2013/14 Closing Balance	**2014/15 Opening Balance**	**Variance**
Other Revenues	2,075,206	2,531,996,548	2,529,921,342
Adjustments During the Year	1,463,835,592	90,411,301	1,373,424,291
Receivables	0	22,346,487	22,346,487
Payables	0	57,680,191	57,680,191

The Accounting Officer has not provided explanation or reconciliation for the above variances. In the circumstances, it has not been possible to ascertain the validity and accuracy of the financial statements.

Submission by the Accounting Officer

He admitted that the cash flow reflects the following opening balances which differ with the corresponding certified closing balances reflected in the previous Financial statement for the year ended 30th June, 2014 as shown below:-

	2013/14 <u>Closing Balances</u>	2014/15 <u>Opening Balances</u>	<u>Variance</u>
Other revenues	2,075,206	2,531,996,548	2,529,921,342
Adjustments during the Year	1,463,835,592	90,411,301	1,373,424,291
Receivable	0	22,346,487	22,346,487
Payables	0	57,680,191	57,680,191

He submitted that the difference was as a result of introduction of a new template/format of reporting provided by the IPSASB, which required an additional note on presentation. In the new template note 21 was introduced on restatement of prior year financial figures. The accounts were subsequently restated to accommodate the additional note. Further to this, we wish to state that Receivables were affected by the decrease (increases) in accounts Receivables- outstanding, while payables were affected by increase (decreases) in accounts payable- Deposits and retentions, this led to a variance in the adjusted figure. We also appreciate that the IPSAS format of reporting was at its initial stage (under development process). This anomaly is highly regretted as it was not anticipated earlier.

The reported opening and closing balances are in agreement with the audited financial statement for the year ended 2013/2014 and 2014/2015. Although there was an error of commission in cash flow, this can be verified from the notes receipts and payments schedule.

Committee Observations and Findings

1. **The cash flow reflects the following opening balances which differ with the corresponding certified closing balances reflected in the previous Financial statement for the year ended 30th June, 2014.**
2. **The query remains unresolved.**

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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;

307. Under-Collection of Appropriations in Aid

The statement of receipts and payments for the year ended 30 June 2015 reflects proceeds from domestic and foreign grants totaling Kshs. 1,521,514,353 which include Appropriations-In-Aid totaling Kshs. 111,514,353 under the Development Vote against approved estimates of Kshs. 482,080,157 resulting in an under-collection of Kshs. 370,565,804 or approximately 76.87%.

Submission by the Accounting Officer

He admitted that the State Department for Education collected receipts amounting to KShs.111, 514,353 under the Development Vote against approved estimates of KShs.482, 080,157. This resulted to an under-collection of KShs.370, 565,804 or approximately 76.87%.

The Under-collection was occasioned by unforeseeable project implementation delays under development vote. There was also a delay in submission of returns by Donor or Development Partners (UNICEF and World Food Programme).

He submitted that the Ministry had subsequently instituted mechanisms to ensure optimum utilization of Donor Funds, including closely monitoring of the projects to take stock of progress and take corrective measures where deviations are noted. Further, adequate provision for GOK counterpart funding to support the Projects and ensure that they are completed within the budget timelines have been factored in subsequent budget estimates.

Committee Observation and Finding

The State Department for Education collected receipts amounting to KShs.111, 514,353 under the Development Vote against approved estimates of KShs.482, 080,157. This resulted to an under-collection of KShs.370, 565,804 or approximately 76.87 percent.

Committee Recommendation

The Accounting Officers should at all times set realistic revenue (AIA) targets and put measures in place to ensure that the revenue is duly collected and accounted for as provided in Regulation 43(c) of the PFM (National Government) Regulations 2015

308. Prior Year Adjustments

The statement of assets as at 30 June 2015 reflects prior year adjustments of Kshs.163, 030,885 for the year under review. Further the same statement reflects prior year adjustment of Kshs. 1,174,044,097 for the comparative year. No supportingdocumentation was availed for audit review. Consequently, it has not been possible to confirm the nature of the prior year adjustment balances of Kshs.163, 030,885and Kshs.1, 174,044,097 reflected in these financial statements.

Submission by the Accounting Officer

It was true that the statement of Assets as at 30th June, 2015 reflects prior year adjustments of Kshs. 163,030,885.00 for the year under review and Kshs. 1,174,044,097.00 for the comparative year. The mentioned adjustments were as a result of balances carried forward from 2012-2013 and prior years, some of which were balancing figures in the previous years. A task Force was formed at the Treasury with a view of investigating the figures and clearing the same from the respective accounts. Ref AG/A/204/ (93) and AC/AIR/08 VOL.1 (copy attached). The task force recommended clearing of accounts of which journals have been prepared to the same effect. They include - district suspense and PMG balances. The following documents were availed for verification.

- Clearance letter from Auditor General.
- Letter of establishment of Taskforce
- Extract of taskforce recommendations
- Journal vouchers for adjustments

Committee Observation and Finding

The statement of Assets as at 30th June, 2015 reflects prior year adjustments of Kshs. 163,030,885.00 for the year under review and Kshs. 1,174,044,097.00 for the comparative year.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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

309: Cash and Cash Equivalents

The statement of assets reflects cash and cash equivalents balance of Kshs. 87,312,630 as at 30 June 2015. However, the bank reconciliation statement for the recurrent account availed for audit review reflected payments in the cashbook not yet recorded in the bank statement of Kshs. 705,532.40. No satisfactory explanations were provided as to why these electronic payments were not cleared as at 30 June 2015 yet G-pay provides reconciliation reports on a daily basis. Consequently, the accuracy and the validity of the cash and cash equivalents balance of Kshs. 87,312,630 as at 30 June 2015 could not be ascertained.

Submission by the Accounting Officer

It was true that the statement of assets reflects cash and cash equivalents balance of Ksh. 87,312,630 as at 30 June 2015. However, the bank reconciliation statement for the recurrent account availed for audit review reflected unrecorded payments in the bank statement of Ksh. 705,532.40 which is analyzed as below:

Payee	Nature of payment	Kshs.
Finance Secretary	3% payroll commission	140,355.40
Various payees	other payroll deductions	465,177.00
Unisan Sacco	overcasting in the cashbook	100,000.00
Total		**705,532.40**

The above mentioned were long outstanding payments in the cash book. The same have since been corrected by reversing the entries in the cash book which were effected on 28th September 2015. The payment of Kshs. 140,355.40 payables to the Finance Secretary and Kshs. 465,177.00 (as analyzed) were reversed vide cash book Pv. No. 22 of Kshs. 1,678,090.30, while a balance of Ksh. 100,000.00 payables to Unisan Sacco was an overstatement in the cashbook was corrected through a reversal in the cash book vide Pv. No. 023 of Kshs. 823,173.00.00.

Committee Observation and Finding

The statement of assets reflected cash and cash equivalents balance of Kshs. 87,312,630 as at 30 June 2015. However, the bank reconciliation statement for the recurrent account availed for audit review reflected payments in the cashbook not yet recorded in the bank statement of Kshs. 705,532.40. No satisfactory explanations were provided as to why these electronic payments were not cleared as at 30 June 2015.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

310. Wasteful Expenditure

The statement of receipts and payments reflects a figure of Kshs. 4,111,729,340 under the use of goods and services which includes an amount of Kshs. 224,778 incurred in respect of repairs of motor vehicles GK A470F and GK A874A vide voucher numbers 2393 and 1230 dated 2 February 2015 and 6 November 2014 respectively. However, examination of motor vehicle records revealed that GK A470F was already grounded and GK A874A had already been disposed off. In view of the above, the propriety of expenditure totaling Kshs.224, 778 could not be confirmed; hence it is a wasteful expenditure.

Submission by the Accounting Officer

He admitted that amount of KShs.224, 778 was incurred in respect of repairs for GKA470F and GKA874A vide voucher NO.2393 and 1230 respectively.

a) GK A470F developed mechanical problems and was taken to the dealer CMC who on 31st July, 2014 issued the ministry a quotation of KShs.105, 378.98. The vehicle was turned in for repair and delivered back to the ministry on 12th Sep 2014 and put to work immediately (Log books attached for Sept, Oct, and November). The invoice R03107873 of Kshs 105,378.98 was received and entered in the log book but was not paid immediately. This was paid when funds were available on the 2nd of Feb 2015. By this time the vehicle had further developed mechanical problems and upon inspection by the Chief Mechanical and transport engineer was declared uneconomical to repair and hence grounded. This vehicle is still grounded at KEMI grounds.

b) GK A874A: The vehicle was taken to Simba Colt Motors- Industrial area on 25th July 2014 and a proforma invoice No.260023006 amounting to Kshs 119,400 was issued. The vehicle was repaired and an invoice of a similar amount issued. The vehicle was put into use immediately. (see work tickets attached) However due to exchequer challenges and availability of funds the invoice no. 108525 of Kshs 119,400 as per the proforma was settled in the year 2015. The vehicle was disposed in July, 2015

He tabled copies of work tickets and mechanical inspection report by the chief Mechanical and Transport Engineer as below:

- Copy of Logbook
- Copies of work ticket
- Mechanical Inspection reports

Committee Observation and Finding

The Ministry incurred an amount of Kshs.224, 778 in respect of repairs for GKA470F and GKA874A vide voucher NO.2393 and 1230 respectively. These expenditures were incurred after the vehicles had already been disposed off. The delay in payment was occasioned by delays in release of funds/exchequer.

Committee Recommendation

The explanation by the Accounting Officer was satisfactory. The matter was marked as resolved.

311. Repair of Nissan Patrol – GK A641G

The statement of receipts and payments reflects an amount of Kshs.4, 111,729,340 under use of goods and services. The balance of Kshs.4, 111,729,340 includes payment of Kshs.919, 510 in favour of D. T. Dobie in respect of repairs for GK A641G. However, the Nissan Patrol GK A641G was not listed in the Ministry's motor vehicle inventory. Further, the letter attached from the department only indicated a request to honour the invoice dated 9 April 2014. In the circumstances, the propriety of expenditure of Kshs.919, 510 on motor vehicle GK A641G could not be confirmed.

Submission by the Accounting Officer

It was true that the above vehicle is not in the Ministry's inventory. The vehicle belongs to the President's Award – Kenya (PA-K), and was repaired on the directive of His Excellency the President during one of the PA-K Trustees annual General Meetings at State House. The then Executive Director of President's Award-Kenya followed the matter up with the Ministry to have the vehicle repaired for lack of adequate funds to meet the repair costs. The vehicle had been lying at D.T Dobie yard where it had been taken for repairs by PA-K in January, 2013. Copies of the communication from PA-K Executive Director to the Ministry, and estimated repair costs issued by D.T Dobie at the time are attached for ease of reference.

In January 2013, D.T Dobie issued an invoice of Kshs.651, 141.00for repair of the vehicle. In April, 2014, the Ministry was requested to support PA-K to meet repair costs. The Chief Mechanical and Transport Engineer was engaged to assess and determine the near accurate repair costs. This led to increase in repair costs to KShs.919, 509.00. The same was referred to the Ministerial Tender Committee that discussed and recommended the repairs.

It is worth noting that the PA-K is funded through the Ministry of Education through annual subventions. H.E. the President had also directed that the subventions be increased to Kshs.10 Million from Kshs.2.5M to enhance PA-K budget to enable them manage their own activities, including maintenance of GK A641G. PA-K could therefore not manage to repair the vehicle due to budgetary constraints. Copies of the following were provided:

- Copies of the communication from PA-K Executive Director to the Ministry
- Estimated repair costs issued by D.T Dobie
- Mechanical Inspection reports

Committee Observation and Finding

The Ministry incurred a total of Kshs.919, 510 in favour of D. T. Dobie in respect of repairs for GK A641G. However, the Nissan Patrol GK A641G was not listed in the Ministry's motor vehicle inventory.

Committee Recommendation

The Accounting Officer should within three (3) months of tabling of this report submit to the Auditor-General the directive from the President, a copy of the log book, and the name of the Director, Presidential Award for audit verification and reporting in subsequent year's audit report.

312. Unaccounted for Funds

The statement of receipts and payments reflects an amount of Kshs.5, 155,063,206 under acquisition of assets which includes a payment of Kshs.29, 654,000 in respect of expenses for Kenya Future Leaders Programme. Examination of the supporting documents revealed that a total of Kshs.22, 890,539 was expended under the future leaders programme. However, it is not clear and the Ministry has not explained how the participants were identified and picked to the programme and how the terms of engagement were determined.

In the absence of supporting documentation it was not possible to confirm the propriety of expenditure totaling Kshs.22, 890,539. 313. Unaccounted for Rent

The statement of receipts and payments for the year ended 30 June 2015 reflects a use of goods and services balance of Kshs.4,111,729,340. Included in this figure is an amount of Kshs.18, 966,912 paid in respect to office rent, service charge and parking at Utalii House. Examination of the payment vouchers and supporting documents for Kshs.18, 966,912 however revealed the following anomalies:

i. The contract between the Ministry and Kenya Tourists Development Corporation has not been availed for audit review to establish the terms and conditions applicable.

ii. The payment was incurred by the Department of Education while respective references are to State Department of Science & Technology.

iii. The payment of Kshs.6, 322,288.60 of 7 April, 2015 was for rent of January 2014 to March 2014. This amount had however not been listed as a pending bill in 2013/2014 financial year.

iv. Attached to the payment vouchers are duplicate invoices. No explanation has been provided on the whereabouts of the original invoices.

v. The rent for the period July 2014 to December 2014 was paid in the month of November 2014 while that of the prior period, January 2014 to March 2014 was made in April 2015. The above inconsistencies have not been explained. Further, rent for the period April 2014 to June 2014 has not been accounted for.

In the circumstances, the propriety of the expenditure of Kshs.18, 966,912 on rent could not be confirmed.

Submission by the Accounting Officer

It was correct that the Statement of receipts and payments reflects an amount of KShs. 5,155,063,206.00 under acquisition assets which includes payment of KShs. 29,654,000.00 in respect of expenses for Kenya Future Leaders Programme. Further, it is true that a total of KShs. 22,890,539.00 was expended on the programme.

The Kenya Future Leaders Programme is currently known as the Greatness (G) United. In the F/Y 2014/2015 budget the Ministry of Education (MOE) recruited Volunteer Graduate

Assistants (VGAs) through a competitive process. This involved recruiting fresh university graduates to apply through an advertisement in the Daily Nation on 27th July 2014 by the Office of Deputy President since it coordinated publicity of the programme.

The number of volunteers who expressed interest in volunteering service online were 4,500. However, many of them did not complete their applications. Those who completed applications and were shortlisted were 1,700 applicants. Through a basic criteria used, the number of applicants were reduced to 1400, who were then invited to take an online Situational Judgment Test (SJT) resulting to 1278 who qualified.

The 1278 essay applicants were reviewed and through further filtering based on merit the number was reduced to 400. Representative selection criteria based on county of origin and merit was used to ensure inclusivity of volunteers from all counties.

The 400 applicants were invited to face-face-interviews, but only 300 candidates availed themselves for face-to-face interviews held in six sites namely; Nairobi, Mombasa, Kisumu, Embu, Eldoret and Nakuru on 22nd August 2014, filtering applicants to 200. The 200 were invited for two-week training at Garissa University and subsequently 134 candidates accepted and showed up at the training. An addition 20 candidates in the waiting list were invited. The final candidates who completed training were 150 on 12th September 2014. The following were provided for reference:

- Copy of candidates in the waiting list
- Copy of volunteers selected and identified.

The terms of engagement as volunteer was stipulated in the advert stated they would volunteer for a period of one year. The KShs.6, 000.00 stipend payment was determined by the Steering Committee meeting held on 14th April 2014 in the office of the Deputy President (minutes were attached and relevant area highlighted). The successful VGAs were deployed in Kisumu, Busia, West Pokot, Nyeri, Machakos, Samburu and Kilifi counties.

A summary on utilization of the 22.8M has been attached covering payments of stipends and supply of G-United materials for the volunteers. A detailed report was availed for review including the following:

i. Memo – Response to an Audit Query
ii. Youth Volunteer Programme (Advert)
iii. Minutes of steering Committee
iv. G-United VGA Cohort I Certificate
v. Daily Nation Newspaper Extract (Launch)
vi. Lists of applicants Interview in Kisumu, Nairobi, Eldoret, Mombasa, Nakuru and Embu.
vii. List of VGAs in the waiting list Summary of 22.8M

Committee Observation and Finding

The Statement of receipts and payments reflects an amount of Ksh. 5,155,063,206.00 under acquisition assets which includes payment of Ksh. 29,654,000.00 in respect of expenses for Kenya Future Leaders Programme. The Ministry expended total of Ksh. 22,890,539.00 on the programme during the year under review.

Committee Recommendation

1. **The Accounting Officer should within three (3) months of tabling of this report submit to the Auditor-General the advertisement and tender documents and analysis on how money was distributed between Cohorts, consumables and Directors for audit verification and reporting in subsequent year's audit report.**
2. **The query remains unresolved**

313. Unaccounted for Rent

The statement of receipts and payments for the year ended 30 June 2015 reflects a use of goods and services balance of Kshs. 4,111,729,340. Included in this figure is an amount of Kshs.18, 966,912 paid in respect to office rent, service charge and parking at Utalii House. Examination of the payment vouchers and supporting documents for Kshs.18, 966,912 however revealed the following anomalies:

i. The contract between the Ministry and Kenya Tourists Development Corporation has not been availed for audit review to establish the terms and conditions applicable.

ii. The payment was incurred by the Department of Education while respective references are to State Department of Science & Technology.

iii. The payment of Kshs.6, 322,288.60 of 7 April, 2015 was for rent of January 2014 to March 2014. This amount had however not been listed as a pending bill in 2013/2014 financial year.

iv. Attached to the payment vouchers are duplicate invoices. No explanation has been provided on the whereabouts of the original invoices.

v. The rent for the period July 2014 to December 2014 was paid in the month of November 2014 while that of the prior period, January 2014 to March 2014 was made in April 2015. The above inconsistencies have not been explained. Further, rent for the period April 2014 to June 2014 has not been accounted for.

In the circumstances, the propriety of the expenditure of Kshs.18, 966,912 on rent could not be confirmed.

Submission by the Accounting Officer

He responded as follows:

(i) In regard to the contract for rent between the Ministry and Kenya Tourist Development Authority. The copy of the lease agreement is attached for your perusal.

(ii) It is true the Ministry paid Kenya Tourists Development Corporation rent without a valid contract. The contract has been redrawn retrospectively to cover the period, 1st Sep. 2013to 31st Dec 2016

(iii) A copy of the lease agreement is attached and signed by the Permanent Secretary- State Department of University Education. The rent payment relates to the State Department of University but by then the ministry was one and the administrative vote for payment of rent was retained under the State Basic Education when the Ministry was split.

(iv) Payments are done on a quarterly basis upon receipt of invoices. In a period where the funds could not cover rent, partial settlement were done with the original invoices, and the balance paid at a later date, when funds are available using copies of original invoice and vouchers. When invoices are mixed up, settlement of subsequent vouchers might have been done before an old invoice is settled.

(v) For rent due across the financial year's invoices are received in a subsequent period which falls in another financial year and this could not be treated as a pending bill.

(vi) For the payment made under the expired contact. The old contract rates were maintained and these were carried forward to the new contact.

Committee Observation and Finding

1. **The Accounting Officer provided satisfactory response and documents to support the response to the query.**
2. **The Committee marked the matter was resolved.**

Committee Recommendation

Accounting Officers should at all times ensure that requisite contract including lease agreements are in place in line with the provisions of the Public Procurement laws and regulations before making any payment to avoid retrospective signing of lease agreements.

314. Undisclosed Pending Bills

The satement of receipts and payments reflects Kshs.4, 111,729,340 under use of goods and services out of which a payment amount of Kshs.3, 134,854 was paid vide payment voucher no. 3255 dated 13 March 2015 for consultancy services carried out on various Teachers Training Colleges. It was however noted from the tender minutes that the consultancy services had been tendered for in 2013/14 financial year through minute number 09/25/2013-2014. However, examination of the pending bills for 2014/2015 financial year revealed that the bill was not listed under pending bills. No satisfactory explanation was provided for non-disclosure of the pending bill amounting to Kshs.3, 134,854. Further, it was noted that the nature of the consultancy paid for could have been carried out by the Ministry's officials from the quality assurance department.

In the circumstances the propriety of expenditure totaling Kshs.3, 134,854 could not be ascertained.

Submission by the Accounting Officer

He admitted that Shape Africa Ltd, was paid Kshs. 3,134,854.00 for Consultancy Services on issues affecting Teachers Training Colleges.

He submitted that in the year 2011, a taskforce comprising of Ministry of Education officials, SAGAs and a few principals of TTCs was appointed by the Permanent Secretary to look into issues affecting Teacher Training Colleges. The taskforce completed the exercise but on submission of the report (Copy attached), it was felt that the work done was not exhaustive enough this necessitated a call for technical assistance. Sharpe Africa Ltd was identified through a competitive process to undertake the exercise. The advertisement and Minutes of Tender committees are annexed for audit review.

He reported that the consultancy firm completed the exercise in the financial year 2012/13 but payment was not made. The delay in payments was occasioned by a technical hitch in the procurement process. The consultancy firm had been requested to embark on the exercise as they awaited the contract to be signed by the Principal Secretary - Minutes were attached.

The issue was resolved and MTC recommended that the Consultancy should be paid vide Minutes No.9/25/204, but the Directorate of Basic Education did not have sufficient funds for payment, so the documents could not be processed. The payment was processed and paid in the financial year 2014/15 when funds were available.

He regretted that the payment was not listed as a pending bill owing to the fact that there was a technicality of supply chain management recognizing unsigned contractual document which result in invalid bills. This was later recognized after signing the contract but could only be settled when funds were available in the subsequent period.

He reported that the capacity has been inbuilt in the Ministry in the department of quality assurance which is currently competent to undertake such assignments. Consequently, no consultancy has been undertaken in this area on subsequent periods. MTC Minutes were provided.

Committee Observation and Finding

1. **The Ministry incurred a total of Kshs. 3,134,854.00 as pending bill payment to Shape Africa Ltd for Consultancy Services on issues affecting Teachers Training Colleges which was undertaken in the FY 2012/2013 and was not listed as pending bill in the FY 2013/2014 but eventually paid in the Fy 2014/2015.**
2. **The explanation that was provided by the Accounting Officer was satisfactory.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records including pending bills and devoid of anomalies in compliance with

the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

315. Disbursement of Infrastructure Grants

The statement of receipts and payments for the year ended 30 June 2015 reflects acquisition of assets balance of Kshs. 5,155,063,206. Included in this figure is an amount of Kshs. 609,939,636 which the Ministry disbursed to eighty-nine (89) secondary schools vide payment voucher number 006188 dated 19 June 2015 for infrastructure programmes. Although the Ministry explained that the target secondary schools were identified by the budget committee of the National Assembly in consultation with the National Treasury and that the proposals were forwarded to the Ministry through respective Members of Parliament, this is contrary to the existing practice where the schools proposals are vetted by the District/County Education Boards which assess and vet the proposed projects by the schools and approve the budgets to be forwarded to the Ministry for funding. The District/County Education boards also monitor to ensure that the approved projects are efficiently and economically implemented.

Submission by the Accounting Officer

On this matter, they confirm that the funds were disbursed to 89 schools after taking into account the following;

i. Requests from stakeholders arising out of public participation by the National Treasury and the Budget Committee of the National Assembly. The Ministry took into consideration the lists of schools in the spirit of delivering as one in government. This was considered in budget formulation and budget allocation.

ii. The National Treasury proposed to avail these funds through an AIE No. A793807 but the position was later changed to recognize the budget under the Ministry as opposed to having the fund under National Treasury.

iii. The initial list from public participation as captured in raw form from could have used Kshs 977.7M. The ministry further liaised with county field officers to submit priority projects based on the deliberation of the public participation and this saw a review of the listed schools, with some schools being dropped and others added, and in some cases the numbers of schools were expanded.

iv. Subsequently the Ministry adopted the recommendation of county field officers on schools to be funded based on the needs and projects to be implemented in specific schools. The variation therefore, of the amounts being allocated to individuals schools was through a consultative effort.

The intervention funded 89 schools and so far a sample of the financed schools depicts improved enrolment as a result of the intervention as shown in the table below.

S/NO	COUNTY	SUB-COUNTY	NAME OF SCHOOL	ENROL 2015	ENROL 2018	DIFF.
1	BUSIA	Teso South	St. Peter/ Aterait	324	600	276
2	E/MARAKWET	Keiyo	St. PatricksIten	789	1199	410
3	GARISSA	Balambala	Saka Girls Sec	204	335	131
4	KIAMBU	Gatundu	Mutunguru Mixed	243	350	107
5	KIAMBU	Kiambu	A.C.K Karura Sec.	272	356	84
6	KITUI	Katulani	Mulango Girls	637	762	125
7	KITUI	Kitui Central	Kitui High	576	736	160
8	KITUI	Kitui Central	St.ThomasAquinasKalawa Boys Sec.	409	576	167
9	NAIROBI	Njiru	Ushirika Sec.	377	599	222
10	NAIROBI	Westlands	Nairobi School	1425	1621	196
11	UASIN GISHU	Eldoret West	Kerotet Sec.	594	801	207
12	VIHIGA	Sabatia	Keveye Girls Sec.	1134	1581	447

v. The ministry disbursed the funds using the laid down procedure and issued guidelines through the field of Education officers in the utilization and accountability of the funds.

vi. Returns have been received from these schools acknowledging the receipts of the funds, indicating the type of projects undertaken, the status of project completion and supporting accounting documents. These documents are available for audit verification

The following documents were availed for verification:

i. Authority letter to incur expenditure and programme of activities approval both explaining the justification for the disbursement of funds,

ii. payment voucher,

iii. list of schools for disbursement schedules,

iv. bank summaries,

v. acknowledge letters for the receipt of funds,

vi. correspondence between National Treasury and Ministry of Education, criteria for disbursement of infrastructure grants,

vii. circular to schools specifying the type of projects to be undertaken and conditions for spending the money,

viii. initial lists of beneficiary schools from members of the Budget Committee rejected by the Ministry for not meeting the minimum disbursement criteria

Committee Observation and Finding

Ministry disbursed to eighty-nine (89) secondary schools vide payment voucher number 006188 dated 19 June 2015 a total of Kshs. 609,939,63 for infrastructure programmes.

Committee Recommendation

The Accounting Officer should within three (3) months of tabling this report submit to Auditor General the disbursement guidelines and a breakdown of howthe money was utilized for FYs2014/2015, 2015/2016/ and 2017/2018 for audit review and reporting in subsequent audit report

316. School Infrastructure Improvement Grant

Further, the statement of receipts and payments acquisition of assets balance of Kshs.5, 155,063,206 includes an amount of Kshs.2, 161,980,000 disbursed to various schools for infrastructure development. However, no criteria in support of how the payments to various schools were made were availed for audit and no returns on how the amount was utilized were availed for audit review. In the circumstances, it has not been possible to establish the authenticity of the expenditure totaling Kshs.2, 161,980,000.

Submission by the Accounting Officer

He reported that the criteria used for disbursement of grants to secondary schools of Kshs. 150,000,000.00; Kshs. 67,100,000; Kshs. 600,000,000.00; and Kshs 29,000,000.00, were as proposed through the public initiative as compiled by National Treasury and submitted to the Ministry of Education through the forum cited in paragraph 12. This was put under the project of public initiative for strategic intervention infrastructure projects funds for 2014/2015 Financial Year.

He submitted that the establishment of the amounts that was allocated to the individual schools was a product that includes the Ministry giving technical advice and channeled the schools and stakeholders request in the public forum as the ministry operational guidelines in the disbursement of grants.

The initial list as compiled through public participation was expanded to accommodate other needy schools that had already submitted their requests for funding. This was to ensure equitable distribution of resources and diversity. The funds were disbursed and a circular issued through the field officers stipulating the operational guidelines for the disbursed grants.

Out of this fund 16.4M disbursed to secondary schools were disbursed to secondary schools at a uniform rate across board as per the Ministry operational guidelines for disbursement of bursaries and grants.

He reported that with regards to availability of returns and how funds were utilized to the auditors, the individual schools have submitted acknowledgement receipts for receiving funds, type of project undertaken and current status of project completion, supporting accounting documents (payment vouchers, receipts, delivery notes tender award documents, invoices, certificate of practical completion of the project). These documents are available audit for audit verification

Committee Observations and Findings

Ministry disbursed to eighty-nine (89) secondary schools vide payment voucher number 006188 dated 19 June 2015 a total of Kshs.2, 161,980,000 for infrastructure programmes.

Committee Recommendation

The Accounting Officer should within three (3) months of tabling this report submit to Auditor General the disbursement guidelines and a breakdown of how the money was utilized for FYs 2014/2015, 2015/2016/ and 2017/2018 for audit review and reporting in subsequent audit report

Other Matters

317. Budgetary Control and Performance

The State Department of Education had a total budget of Kshs.63, 980,377,089 voted for the financial year 2014/2015 comprising of Kshs.9, 739,007,073 for development and Kshs.54, 241,370,016 for recurrent votes respectively. The budget absorption in the department was as follows: -

Item	Budgeted Allocation 2014/2015	Actual 2014/2015	Under Absorption	Absorption in %

Recurrent	54,241,370,016	52,997,412,863.80	1,243,957,152	98%
Development	9,739,007,073	7,723,731,867.20	2,015,275,206	79%
Total	63,980,377,089	60,721,144,731.00	3,259,232,358	95%

In view of the above, the Ministry managed 98% absorption on the recurrent expenditure, however, the Ministry failed to utilize Kshs.2, 015,275,206 or 21% of the development budget. Failure to utilize funds is an indication of lack of adequate facilities and infrastructure in the education sector which may have impacted on delivery of quality education to the Citizens of Kenya.

Committee Observation and Finding

The Ministry failed to utilize Kshs. 2,015,275,206 or 21% of its approved development budget.

Committee Recommendation

The Cabinet Secretary for the National Treasury should put in places measures to address matters such as procurements delays and IFMIS systems failures which impeded the implementation of approved budget by the national government entities.

318. District Expenditure

The statement of receipts and payments reflects a figure of Kshs.20, 621,012,830 under Transfers to Other Government Units which includes Authority to Incur Expenditure (AIEs) released to District Education Officers (DEOs). However, audit of district expenditure revealed the following anomalies:

318.1 Loima Sub-County

318.1.1 Unaccounted for Fuel

During the year under review, the Department of Education, Loima Sub-County, Turkana County made three payments totaling Kshs.550, 000 to a firm in respect of purchase of 4,650 liters of diesel. However, no records including fuel register, detailed orders and motor vehicle work tickets were provided for audit review contrary to Section 17.1.1 of the Government Financial Regulations and Procedures which require accounting officers to maintain up to date inventory and stock control records. Consequently, the propriety of the expenditure of Kshs.555, 000 incurred on fuel could not be confirmed.

Submission by the Accounting Officer

He submitted that the fuel drawn was used to facilitate local running of Sub County Director of Education, supervision of schools, coordinating and transporting students to various co-curricular activity centre at the Sub County, County, Regional and National levels i.e ball games and music festivals.

The following copies of documents were provided to account for fuel drawn and are available for audit review.

a) Fuel register

b) Sampled Detail order – others are available for review.

c) Work tickets (Extracts)

d) Local Purchase orders and invoices

Committee Observations and Findings

1. **The Accounting Officer submitted copies of documents to account for fuel drawn including fuel register, sampled detail order, work tickets (Extracts), and local purchase orders and invoices.**
2. **The Committee observed the query had been resolved since the documents had been provided.**

318.1.2 Irregular Cash Purchase

Information available indicates that the Department of Education, Loima Sub-County during the year under review made cash purchases totaling Kshs.392, 530. However, the purchases exceeded the Kshs. 10,000thresholds for entities in class B in which District Treasury entities fall contrary to the first schedule of the Public Procurement and Disposal Regulations 2006 and 2013 which limits low value procurement to Kshs. 10,000 on each procurement per item. The department was therefore in breach of the law and regulations.

Submission by the Accounting Officer

The cash purchase was due to the following challenges while undertaking normal day to day operations within Loima Sub-county.

The location of Loima sub-county Director's office is quite a distance from Lodwar Town of which all procurement activities are centralized. Due to urgency of some items, following the normal procedures would have caused delays.

The department was faced with a challenge of suppliers overpricing the items purchased through various contract documents. The contract prices were quite high compared to retail prices hence, no Value for Money given. It is in this regard with consultations with the procurement department the user was granted permission to purchase low value items in cash and reserve high value purchases to be procured using LPOs and LSOs. Attached is the request letter and letter from procurement office. Request letter and letter from procurement office were provided.

Committee Observations and Findings

The Committee observed the query had been resolved since the documents had been provided

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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(2)(k) of the PFM Act 2012.

318.1.3 Unsupported Expenditure – Co–curriculum Activities

During the year under review, payments of Kshs.270, 000 and Kshs.130, 000 were made to two (2) officers at the District Education office, Loima on 25 and 29 June, 2015 respectively. The payments were in respect of surrender of imprest issued for co-curriculum activities which were however not supported with receipts and detailed analyses to indicate how the funds were utilized, contrary to Section 10.6 of the Government Financial Regulations and Procedures which require that all payment vouchers be supported by original documents. Consequently, the propriety of the expenditure of Kshs.400, 000 could not be confirmed.

Submission by the Accounting Officer Co-curricular activities included Ball games, music festivals and scout's competition. The payment was to cater for students' food and refreshments during that time. The following have been attached to support the above expenditures. The money was payable to KEPSHA who coordinated the activities. Copies of the following were provided:

i. KEPSHA Demand Letter

ii. Wycliffe K. Kironget payment Voucher- 270,000/= - it shows receipt paid to Kenya Primary School Head Teachers Association Loima to facilitate ball games from zonals to sub-county level. Together with student lists.

iii. DEO Loima payment voucher 130,000/= - it shows letter from CDE to support co-curricular activities at County and Regional level, budget and list of students.

iv. Students list for scouts at Mumias and Music festivals at Bungoma and Kisumu.

v. Program for national music festivals at Kisumu.

vi. Budgetary estimates at various levels

Committee Observations and Findings

1. **The Accounting Officer provided satisfactory explanation and documents to the Committee**
2. **Committee observed the query had been resolved since the documents had been provided**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.2 Turkana Central Sub-County

318.2.1 Unaccounted for Fuel

During the year under review, an amount of Kshs.1, 376,984 was paid to a firm for the purchase of 13,983 liters of diesel in bulk. However, no fuel register, detailed orders and motor vehicle work tickets supporting fuel usage were availed for audit review. Consequently, the propriety of the expenditure of Kshs.1, 376,984 could not be confirmed.

Submission by the Accounting Officer

He admitted that Turkana Central District paid Kshs.1, 376,984 to Ogle Petrol Station for purchase of 13,983 liters of diesel in bulk. The fuel was used to transport food commodities under the school feeding programme. Under normal circumstances the food is transported by contracted transporters, during this time they had withdrawn their services owing to unpaid debts. Due to the crisis that was ensuing in schools, the County Education Board resolved that school heads approach individuals and school sponsors to transport the food for them and the DEO to fuel the vehicles. The DEO then approached a contracted fuel merchant, Ogle Petrol Station to provide fuel on credit and to be paid once the department received funds from the government.

He submitted that this arrangement was based on the CEB's authority to the DEO to use part of the AIE allocation meant for hire of transport to pay the fuel drawn on credit, and the balance to service the debt. Alongside the private vehicles used, a GK lorry was also used to ferry food to schools near Lodwar as it was not in very sound mechanical condition. Please note that at this time the DEO Turkana Central was also responsible for transportation of food to Loima District schools.

The following documents are available and copies were attached for audit review as follows:

i. CEB minutes of October 2014

ii. List of vehicles used and the amount of fuel drawn by each
iii. DEO's request letter to the Petrol Station
iv. Invoice
v. LSO

Committee Observations and Findings

1. **The Accounting Officer in his submission provide the necessary documents including CEB minutes of October 2014, list of vehicles used and the amount of fuel drawn, DEO's request letter to the Petrol Station, Invoice and LSO.**
2. **The Committee observed the query had been resolved since the documents had been provided**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.2.2 Irregular Cash Purchases

Scrutiny of payment records revealed that the department of Education made cash purchases totaling Kshs.539, 150 which were above the low value procurement limit of Kshs.10, 000 allowed by the Public Procurement and Disposal Regulation of 2006 and 2013. During the same period, two (2) cash payments of Kshs.175, 000 each were made to two (2) suppliers in respect of food stuff storage rent for seven (7) months. However, no reasons were provided for making payments in cash. In addition, there was no valuation report to indicate how the monthly rent of Kshs.25, 000 was arrived at and how the office space was identified. Further, no lease agreement was provided for audit review. Consequently, the department was in breach of the law.

Submission by the Accounting Officer

He admitted that the department made cash purchases, a total of Kshs.539, 150.00. The payments were as follows:

1. Kshs. 350,000 was payment of rent for storage of food for school feeding programme. The rent rate of 25,000 per month was determined and approved by the DEB in 2008.

2. Kshs.189, 000 used purchase fumigants for use in the food stores. The fumigants were not among the goods advertised for tender and the department sought for permission and advice from the procurement officer

The following documents were provided for review:

i. CEB minutes of April 2008
ii. DEO's letter to the then manager/owner of the stores
iii. DEO's letter to procurement officer seeking for permission/advice
iv. Response from the procurement officer
v. Invoice

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including CEB minutes of April 2008, DEO's letter to the then manager/owner of the stores, DEO's letter to procurement officer seeking for permission/advice, Response from the procurement officer, and invoices to the satisfaction of the Committee.**
2. **The Committee Observed the query had been resolved since the documents had been provided**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.2.3 Unsupported Expenditure on Regional Primary Ball Games and Music Festival
Audit review of expenditure records relating to co-curricular activities revealed that amounts of Kshs. 204,452 and Kshs. 475,548 was paid to two (2) officers in the District Education Offices, for regional games, primary ball games and regional music festival. However, no supporting information/documentation to indicate how the amount of Kshs.680, 000 was utilized was availed for audit review.

In addition, an amount of Kshs.60, 000 was paid to an officer in respect of allowance for three (3) officers attending a workshop in Nairobi and Kshs.125, 000 to the District Education Officer in respect of allowances for five teachers to attend HIV/Aids Workshops in Nairobi. However, no supporting documents, including invitation letters, motor vehicle work tickets/bus tickets and certificates of attendance were availed for audit review.

Consequently, the propriety of the expenditure totaling Kshs.865, 000 could not be confirmed.
Submission by the Accounting Officer

He admitted that the department spent Kshs.204, 452and Kshs.475, 548 towards regional ball games and music competitions. The money was used to pay for part of transport expenses for the sub-county teams to Bungoma for music and Vihiga for ball games. The money was given based on an agreed formula between KEPSHA and the DEO where the DEO contributes 40% of the budget of every activity depending on the availability of funds.

KSHS 60,000 PAID TO 3 TEACHERS

He admitted that Kshs.60, 000.00 was paid to 3 teachers to attend 2-day exposure training on testing, measurement and evaluation. The teachers were paid a negotiated night out of Kshs.6, 500.00 for two days each and Kshs.7, 000.00 each for transport.

KSHS. 125,000 PAID TO OFFICERS TO ATTEND A WORKSHOP IN NAIROBI

He admitted that Kshs. 125,000 was paid to 8 teachers to attend a HIV/AIDS workshop in Nairobi. The teachers were paid a negotiated rate of a day night out of Kshs. 8,625 each and Kshs. 7,000 for transport.

The following documents were attached for audit review:

1. Bus tickets
2. Request letters for funding from KEPSHA
3. Acknowledgement letter from KEPSHA
4. Payment schedules
5. Invitation letter

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including bus tickets, request letters for funding from KEPSHA, acknowledgement letter from KEPSHA, payment schedules and invitation letters.**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.3 Vihiga County

318.3.1 Unsupported Expenditure on Supply of Goods and Services

Examination of County Education Office records revealed that an amount of Kshs.296, 000.00 and Kshs.294, 000.00 all totaling Kshs.590, 000 were made to two (2) suppliers. However, supporting documents for these payments were not availed for audit verification. In the circumstances, the propriety of the expenditure amounting to Kshs.590, 000.00 could not be confirmed.

Subission by Accounting Officer

It was true that Examination of county Education Office records revealed that an amount of KShs.296, 000.00 and KShs.294, 000.00, a total of KShs.590, 000 was paid to two (2) suppliers. Kshs.296,000/= (Two hundred and ninety six thousand) was issued vide imprest warrant no.153185 on 28th October 2014 and was used to pay 37 part time teachers for four (4) months Honoraria (July, August, September and October 2014) at the rate of Kshs.2,000/= (Two thousand per month) each. The imprest was surrendered vide voucher no. 64 captured in the VBC on 10th November 2014 after paying them all on 6th November 2014.

Returns to the Directorate of Adult and Continuing Education as well as the Human Resource Director Ministry of Education were also made. KShs.294, 000.00 was incurred through LPO. An invoice was received and paid in respect of fuel. The documents are available for audit verification and copies were annexed. Copies of the payment voucher, imprest warrant and duly signed F.O 79 form were also attached for verification and necessary action.

i. Fuel register
ii. Detailed orders
iii. Motor Vehicle work ticket

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including fuel register, detailed orders, motor vehicles work tickets.**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.3.2 Unsupported Fuel Expenditure

Further, expenditure on fuel amounting to Kshs.272, 000 was not supported by fuel register and work tickets. Therefore, the validity and authenticity of expenditure of Kshs.272, 000 could not be confirmed.

Submission by the Accounting Officer

It was true that expenditure on fuel amounting to KShs.272, 000 was not supported by fuel register and work tickets. The following documents were availed:

i. Fuel register
ii. Detailed orders
iii. Motor Vehicle work tickets
iv. Provide any other document to support the purchase of fuel and to show inventory and stock control

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including fuel register, detailed orders and motor Vehicle work tickets**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.4 Trans Nzoia County

318.4.1 Trans Nzoia West District

318.4.1.1 Cash Purchases

Examination of records at the Ministry of Education in the Trans-Nzoia County revealed that the department procured 81 trophies for various activities for Kshs.211,740 and two hundred and forty two (242) text books from various vendors worth Kshs.86,213 through cash purchases instead of quotations for competitive bidding contrary to Public Procurement and Disposal Regulation of 2013 and 2016.
Similarly, no documents were availed to confirm that the trophies were taken on charge and

entered in the department's stores records. Consequently, the department was in breach of the law and it is doubtful if the stakeholders obtained the value of their resources.

Submission by the Accounting Officer

It was true that Examination of records at the Ministry of Education in the trans-Nzoia county revealed that the department procured 81 trophies for various activities for KShs.211, 740 and two hundred and forty-two (242) text books from various vendors worth KShs.86, 213 through cash purchases instead of quotations for competitive bidding contrary to Public Procurement and disposal Regulation of 2013 and 2016.

The queries have since been addressed to the satisfaction of the auditors.

i. Letter of clearance from Office of Auditor general ref ELD/TZWDT/12/15/22/5

ii. Documents that were submitted for audit review

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including letter of clearance from Office of Auditor general ref ELD/TZWDT/12/15/22/5.**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.4.1.2 Bulk Fuel and Lubricants Purchase

Examination of fuel and lubricants records during the year under review revealed that 8,226 litres of fuel worth Kshs.822, 123 were procured by the department from two suppliers. Although the work tickets showed entries of fuel drawn, no fuel register and detail orders were maintained to indicate how the fuel was distributed or utilized. In the absence of a fuel register and detail orders it has not been possible to confirm receipt and issue of the fuel amounting to 8,226 litres. Consequently, the propriety of the expenditure of Kshs.822, 123 could not be confirmed.

Submission by the Accounting Officer

It was correct that examination of fuel and lubricants records during the year under review revealed that 8,266 litres of fuel worth KShs.822, 123 were procured by the department from two suppliers. Although the work tickets revealed entries of fuel drawn, no fuel register and detail orders were maintained to indicate how the fuel was distributed or utilized. He confirmed that the queries had since been addressed to the satisfaction of the auditors. The following copies were availed:

i. Letter of clearance from Office of Auditor general ref ELD/TZWDT/12/15/22/5

ii. Documents that were submitted for audit review

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including letter of clearance from Office of Auditor general ref ELD/TZWDT/12/15/22/5.**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.4.2 Trans Nzoia East District

318.4.2.1 Hire of Private Premises and Payment of Office Rent in Cash

Examination of records indicated that the Ministry of Education rented office space for the District Education Office at Chebarus Trans-Nzoia East District. The monthly rent for Cherangany/Chebarus plot No.234 was Kshs.24, 000 per month for three (3) years from 3 February, 2010 and was increased to Kshs.80, 000 per month with effect from 3 February 2015 as per the agreement signed. As at 30 June, 2015 an amount of Kshs.1, 784,000 had been paid as rent for the office space.
It could not be established how the rented premises were identified given that no procurement documents were availed for audit verification thus contravening Section 17.3.1 of the Government Financial Regulations and Procedures that require all procurement of goods and services be made through open competitive tenders or quotations which are subject to approval by the appropriate tender board before orders are placed.

In addition, no explanation was provided on how the amount of rent payable was determined. Further, the rationale of renting a premise for office space while the newly constructed District Headquarters offices at Kachibora Urban Centre had vacant offices could not be established. The rent payment was also effected through cash and cash paid exceeded the low value procurement limit of Kshs.10, 000 allowed by Public Procurement and Disposal Regulations of

2006 and 2013. The Ministry did not get value for money by paying rent for office space instead of using vacant Government offices.

Consequently, the propriety of the expenditure of Kshs.1, 784,000 could not be confirmed.

Submission by the Accounting Officer

It was true that the Ministry rented office space for the DEO at Chebarus Trans Nzoia East District. The premises were identified in 2010 through the DEB. Minutes of adoption of the premises are here attached for your audit review and give the basis to justify the premises. The Ministry involved the Ministry of Planning at all levels for valuation and advice on the amounts to pay. Up to January 2015 Kshs.24, 000 pm was the agreed rent and endorsed by the valuations and advisory from the Ministry of Housing.

The landlord sought review of the rent payable and we liaised with the Ministry of Housing who retained the premises and advice on the amount to be paid as rent of Kshs.80, 000 per month with effect from February 2015. The reports from the concerned Ministry are attached for your audit review. The Ministry moved out of the premises in the subsequent periods when space was provided within the government premises.

Committee Observations and Findings

1. **The Ministry rented office space for the DEO at Chebarus Trans Nzoia East District at Kshs.24, 000 pm. However, the landlord sought upward review of the rent of Kshs.80, 000 per month with effect from February 2015.**
2. **The Ministry moved out of the premises in the subsequent periods when space was provided within the government premises.**
3. **The matter was marked as resolved**

318.4.2.2 Hire of Transport and Payments in Cash

The Ministry of Education made payments to different Ministry officials totaling Kshs.932, 000 in cash for hire of motor vehicle services. The motor vehicle was to ferry students from Kipkeikei Secondary School to various venues for extra co-curricular activities. However, no supporting documents were availed for verification indicating the procurement method used in sourcing for the transport services thus contravening Section 17.3.1 of the Government Financial Regulations and Procedures that require all procurement of goods and services to be made through open competitive tenders or quotations which are subject to approval by the appropriate tender board before orders are placed.

The payment vouchers did not also have the requisite supporting documents attached to them such as approved schedule of participants and officials, requisitions from user departments, local service order, timetables and schedule of events and venues contrary to Section 5.5.14(c) and (d) of the Government Financial Regulations and Procedures.

In the absence of supporting documents, it was not possible to confirm whether the hire of transport services complied with the procurement regulations and as such the propriety and accuracy of the amount expended totaling Kshs.932, 200 could not be confirmed.

Consequently, the department was in breach of the law.

Submission by the Accounting Officer

It was true that Kshs.932, 000 was spent in cash for hire of motor vehicles to ferry students to various venues for extra- curricular activities. The district co-curricular planning committee in a meeting held on 19th December, 2014 resolved that two heads associations KEPSHA and KESSHA co-ordinate the activities and apply for the funds. The minutes are attached also identifies the vehicles that were to be used.

The calendar for co-curricular activities is also attached for ease of reference for identification of venues. The funds were taken in cash and deposited with KESSHA and KEPSHA who issued a receipt on the same and accounted for the utilization of the funds. Receipts demand notes on amounts due are also availed for audit review

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including calendar for co-curricular activities, KESSHA and KEPSHA receipts and demand notes on amounts due were availed for audit review.**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.5 West Pokot County

318.5.1 Unsupported Expenditure on Co-Curricular Activities

Records availed for audit review indicate that the County Director of Education incurred expenditure of Kshs. 834,000 whose supporting documents such as work programmes, cash receipts and expenditure returns were not availed for audit review. In the absence of proper supporting documents, the propriety of expenditure totaling Kshs.834, 000 could not be confirmed.

Submission by the Accounting Officer

It was true the county Director of Education incurred expenditure of Ksh. 834,000 whose supporting documents such as work programmes, cash receipts and expenditure returns were not availed for audit review. These documents are now available for review. Copies were attached for verification as follows:

i. Vouchers totaling Ksh. 384,000

ii. Signed Schedules of payments made

iii. Calendar for Primary and secondary Schools co-curriculum activities

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including vouchers totaling Ksh. 384,000, signed schedules of payments made, and calendar for Primary and secondary Schools co-curriculum activities.**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.5.2 Irregular Identification of Trainees

Available records indicate that an expenditure of Kshs.31, 382,839 was incurred on ICT training of 1,317 teachers. However, no evidence was availed to confirm that the County Director of Education liaised with TSC county directors in identifying the three (3) teachers from each primary school for the training as stipulated in the unreferenced letter dated 19 March 2015 to all county directors of Education. Consequently, it has not been possible to confirm the propriety of expenditure totaling Kshs.31, 382,839.00.

Submission by the Accounting Officer

The County Director of Education liaised with the TSC County Director of Education in identifying the participant for ICT training. The County Director TSC was a member of the planning committee and is the one who raised the invitation letters to identified teachers. Copies of the following were attached for verification.

i. Minutes

ii. Sample Invitation letters to teachers

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including minutes and sample invitation letters to teachers**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

318.6 South Pokot County

318.6.1 Unsupported Expenditure on Various Schools' Activities

Records made available for audit review indicate that the District Education Officer incurred an expenditure of Kshs.571,752 whose supporting documents such as work tickets, invitation letters, programmes, travelling tickets and reports were not availed for audit review. In the absence of supporting documents the propriety of expenditure totalling Kshs.571, 752 could not be confirmed.

Submission by the Accounting Officer

It was true that District Education Officer incurred an expenditure of KShs.571, 752 whose supporting documents such as work tickets, invitation letters, programmes, travelling tickets and reports were not availed for audit review. This was because during the time of audit review 2014-2015 school co-curricular activities were still ongoing and thus some of the documents had not been surrendered. The supporting documents were availed for audit review and copies are attached for audit review.

i. Copies of vouchers
ii. Bus Tickets
iii. Work tickets
iv. Assessment reports
v. Programmes

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including copies of vouchers, bus Tickets, work tickets, assessment reports and programmes.**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

319. Current Grants, and Transfers to Government Agencies and Other Levels of Government

As reported in 2013/2014, included in other grants and transfers figure of Kshs. 67,003,247,753.00 under note 12 to the financial statements is an amount of Kshs. 65,369,305,403.00 in respect of current grants and transfers to government agencies and other levels of government. Included in Kshs. 65,369,305,403.00 are disbursementstotalingKshs. 21,524,382,508.00 to seventeen (17) sampled Universities and other government agencies out of which Kshs. 21,392,812,896.00 was confirmed received as at the date of this report. The resultant variance of Kshs.131, 569,612 has not been explained or reconciled. A review of the disbursements status in January 2016 indicated that the variance of Kshs.131, 569,612 remained unreconciled as at the date of this report. Consequently, it has not been possible to ascertain the accuracy and validity of the disbursements of Kshs.65, 369,305,403.

Submission by the Accounting Officer

It was true that the statement of receipts and payments for 2013/2014 financial year reflects Kshs. 67,003,247,753.00 under grants and transfers to other levels of government. Included in the Kshs. 65,369,305,403.00 are disbursements totaling Kshs. 21,524,382,508.00 to 17 sampled universities and other government agencies out of which only Kshs. 21,305,546,361.00 was confirmed received. The resultant variance of Kshs. 218, 836,147.00.

The variance of Kshs. 218,836,147.00 was occasioned by inaccuracy in reporting by some institutions and unconfirmed returns. The status of the confirmed figures is as per the table here below: -

Head	Institution	Net Expenditure	Confirmed	Variance	Remarks
0006	KNATCOM	113,432,744	106,000,000	7,432,744	Variances was a cancelled order
0021	KISE	56,074,349	96,311,202	(40,236,853)	Corrected J/E attached and copy of Appropriation
0078	Tech. Uni. Kenya	1,040,500,000	1,040,500,036	(36.00)	Confirmed directly through letter Ref:AGC/1/8/Vol.VII(403)
0080	Univ. Of Nairobi	6,256,215,053	6,256,215,054	(1.00)	Rounding difference
0081	Kenyatta Uni.	3,785,791,190	3,817,484,384	(31,683,194)	Included CBA returned from JAB the financial statement of the University
0083-01	JKUAT	2,061,622,625	2,159,415,654	(97,793,029)	Combined recurrent and development, PAUSTI and open university
0083	Kirinyaga Univ.	248,067,300	259,297,300	(11,230,000)	Included the June 2013 capitation that was received early July to the capitation for 2013/2014
0083-10	Coop. Univ.	265,362,500	252,605,963.7	12,756,536.3	The college has confirmed Kshs.265,362,500 letter CUCK/A/6((A) VOL.V/30
0085	Moi Univ.	3,328,458,900	3,378,248,000	(49,789,100)	Confirm receipt of Kshs.3, 314,067,367.00 through letter Ref:MU/FIN/PS/VOL.6(38) Dated 4th Nov.2015. Bal.14,391,533 was disbursed to Rongo University college

0105	LaikipiaU niv.	516,429,550	524,669,878	(8,240,328)	Mixed CBA receipts from JAB with those from the Ministry
0106	DedanKi mathi	512,580,650	512,580,655	(5.00)	Error from the institution
0111	Univ. Of Eldoret	1,148,354,000	1,148,396,881.35	(42,881.35)	The college has confirmed Kshs1,148,353,999.95 letter UoE/VC/MEST/63
	Total	**5,771,185,600**	**5,816,501,378**	**-45,315,778**	

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including explanation for the resultant variance of Kshs. 218, 836,147.00 which was occasioned by inaccuracy in reporting by some institutions and unconfirmed returns**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

DONOR FUNDED PROJECTS

EDUCATION III PROJECT – STRENGTHENING AND EXPANDING ACCESS TO APPROPRIATE SECONDARY EDUCATION AND SKILLS ACQUISITION (PROJECT NO.P-KE-IAZ-001)

Basis of Adverse Opinion

320. Unsupported Pending Bills

The Government of Kenya and African Development Fund (ADF) signed an agreement on the implementation of the Strengthening and Expanding access to Appropriate Secondary Education and Skills Acquisition Project Credit No. P-KE-IAZ-001 on 3 June 2004. The Project was to initially come to an end on 31 December 2012 but was extended to April 2013, after which no expenditure was supposed to have been incurred on the project. However, scrutiny of the project documents/information availed for audit review, indicated that there are pending bills totalling Kshs.166, 054,891 as disclosed in note 9 to the financial statements. The pending bills are as analysed below:

	Kshs.
Total requirement for extra/specialist works	60,245,513.67
Funds for water tank platforms (Kshs.300, 000 per school for 350 schools)	105,000,000.00
Amount not yet disbursed from original contracts	33,561,923.77
Less amount disbursed in 2013/2014	(32,752,545.70)
Total pending bills	**166,054,891.74**
	==============

It was not clear and management has not explained why these bills were not disclosed before the end of the extension period of April 2013. It was further noted that the bulk of the pending bills is on water tank platforms for 350 schools at a cost of Kshs.300, 000 totaling to Kshs.105, 000,000. The management has also not explained how the cost of Kshs.300, 000 per water tank platform was arrived at.

In addition, it's not clear when and if the extra funding on varied works were approved as no evidence of such approval was availed for audit review. In the circumstances, it has not been possible to confirm that pending bills amounting to Kshs. 166,054.891.74 are made in the best interest of the stakeholders and if it is a proper charge to the public resources.

Submission by the Accounting Officer

a) Pending Bills

It was true that the total amount of pending bills is Kshs.166, 054,891.74 as indicated in the audit review report.
The non-discloser of the pending bill was regrettable. This was carried forward as some project activities were still ongoing for new schools which were not in the original list of the initial contract but were added later in the new phase after Ministry requested for the extension of the contract end period date and additional funding (see attached documents for audit review. Further, some contractors for schools that were in the initial phase had not delivered the items to commence works at the school level and cited various challenges and therefore requested for the extension of varied dates for delivery of items. Hence, project activities for such schools were incomplete at the expiry of the initial and after the extended contract end period date.

According to internal audit report on the status of the pending bills, the bills for contractors for some schools were reviewed and recommended for payment while others were recommended for further investigation to confirm the actual amount owed to contractors for each school before payment can be done. I wish to state that the Ministry is going to take necessary steps to pay the approved contractors bill as soon as funds are made available by the National Treasury and also investigate non- approved bills and make payments later after clearance by the auditors

It was also true that the bulk of the pending bills is on water tank platforms for 350 schools at a cost of Ksh. 300, 000.00 per school totaling to Kshs. 105,500,000.00. He stated that the cost of the water tank platform was arrived at based on guideline on standard concrete platform design and corresponding bill of quantity (BOQ) developed by the Ministry for tank base procurement that was approved by AfDB and the Ministry.

The Ministry also issued a guideline, drawings and priced BOQs for construction of three water tank platforms in the 350 secondary schools under the Education III Project to all County Directors of Education, all District Education Officers and all Principals of Education III project schools.

On the approval of the extra funding on varied works, I wish to state that the additional funding was approved by the AfDB and the Ministry of omitted/varied works as per the attached schedule for 94 schools totaling to Kshs. 166,054,891.74 (see attached document). In addition, the AfDB and the Ministry agreed that the works on the construction of water tank platform was to be full contract and was to be awarded as per the requirements of the guideline at the school level that allowed a variation of 15% after applying and obtaining a No objection for the 15% variation on the contract sum for schools that had two (2) contractors. The schools that had full contract less than Kshs.2, 000,000.00 were to inform PCU to enable the Ministry seek authority from the bank for schools to undertake local tendering.

Committee observations and Findings

1. **The Committee noted that the documents had been availed to the auditors and verified.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

The Accounting Officers should at all cost avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget.

321. Unsupported Receipts and Payments in Statement of Cash Flows

The statement of cash flow for the year ended 30 June 2015 reflects Kshs.2,580,000 under proceeds from domestic and foreign grants and other payment of Kshs.1,304,917 while the statement of receipts and payments reflects Nil transactions in both 2013/2014 and 2014/2015 financial years. The project management has not provided explanations for the above anomaly. In the circumstances it has not been possible to ascertain the validity and accuracy of the

statement of cash flows for the year ended 30 June 2015.
Submission by the Accounting Officer

It was true that the statement of cash flow for the year ended 30th June 2015 reflects Kshs. 2,580,000 under proceeds from domestic and foreign grants and other payment of Kshs. 1,304,917 while the statement of receipts and payments reflects Nil transactions in both 2013/2014 and 2014/2015 financial years.

These were payments /expenditures for schools pertaining to previous years but had not been submitted for our inclusion in the statements. However, the same had been included earlier accounts as receipts and subsequently reflected as receivables in the previous years. Therefore, recording them as receipts again would have amounted to double accounting.

Committee observation and Finding

The Committee observed the matter as resolved since the project had long been closed

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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

322. Unresolved Prior year issues

322.1. Non – Financial Assets

As reported in the previous years, the cumulative balance of non-financial assets of Kshs.1, 646,113,939 excludes assets totalling Kshs.1, 594,898,306 omitted from the financial statements. It is not clear and the management has not explained why assets worth Kshs.1, 594,898,306 are omitted from these financial statements. In the circumstances, it has not been possible to confirm the accuracy and completeness of the non-financial assets cumulative balance of Kshs.1, 646,131,939.

Submission by the Accounting Officer

It was true that the cumulative balance of non-financial assets of Kshs.1, 646,113,939 excludes assets totaling Kshs.1, 594,898,306 omitted from the financial statements. The assets in question were treated as consumables therefore not included in the assets and liabilities. The ministry agrees that there was an omission and regrets the anomaly.

Committee Observation and Finding

The Accounting Officer failed to prepare in time comprehensive asset register with a complete asset listing as required under Regulation 143 of the PFM (National Government) Regulations 2015.

Committee Recommendation

The Accounting Officer should ensure at all times that the entity prepare in time comprehensive asset register with a complete asset listing as required under Regulation 143 of the PFM (National Government) Regulations 2015.

322.2. Unaccounted for Assets – Photocopy Machines

As reported in the previous years, an amount of Kshs.16, 878,000 was paid to a firm to transport, install and train on the use of 374 photocopy machines to various secondary schools. However, no confirmation of receipt of these services by the beneficiary institutions was availed for audit verification. In addition, a list of personnel trained on the use of the photocopying machines was not availed for audit verification. Further, although documents in support of the payment indicate that 374 machines were dispatched, the number of beneficiaries was indicated as 350 institutions therefore leaving a balance of 24 machines worth Kshs.1, 077,240 unaccounted for as at the date of this report.

Submission by the Accounting Officer

It was true as indicated in the audit report for unaccounted for assets under photocopy machines. The machines were distributed by the contracted firm (Copy Cat Ltd) initially to 341 out of targeted 374 secondary school using delivery notes that were received at the school, stamped with school official rubber, name of receiver, national identity card number and signature as an acknowledgment for the receipt of machines. Hence, the schools did not write another acknowledgement receipt. However, this can be followed with schools and submitted later if necessary. The delivery notes for each school are available at the Ministry headquarter for audit verification (see attached sample for St. ComboniAmakuiriat Sec. School.

The Ministry has also contacted the supplier of the photocopy machines to avail the list of personnel trained on the use of machines and relevant documents will be availed later for audit verification.

Committee Observations and Findings

1. **The Accounting Officer in his submission provided the necessary documents including delivery notes for each school and contacted the supplier of the photocopy machines to avail the list of personnel trained on the use of machines and relevant documents**
2. **The Committee observed the query had been resolved since the documents had been provided.**

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

322.3. Furniture, Books, Computers and Other Equipment

Further, as reported in the previous years, goods worth Kshs.953, 970,360.35 were procured for distribution to various learning institutions. These goods included furniture, books, machines, computers and other equipment. Although the Ministry has maintained the distribution list at the Ministry's Headquarters, no confirmation of receipt by the beneficiaries was availed for audit verification as at the date of this report.

In addition, included in the above amount are Kshs.44, 445,395.70 and Kshs.5, 516,000 for the supply of 15,267 two-seater school desks and storage boxes respectively to nonformal learning institutions mainly in major urban centres. However, full details of these institutions including their contacts and physical locations were not availed for audit verification. In the circumstances, it has not been possible to ascertain if the assets worth Kshs.953, 970,360.35 were actually received by the intended beneficiaries.

Submission by the Accounting Officer

It was true that the goods under the project component included furniture, books, machines, computer and other equipment. The goods were issued to beneficiary schools to the Principals or their representatives who counter who countersigned signed Form S11 – Counter Requisition and Issue Voucher, indicated their names, national identity card number, designation and TSC number. This was treated as acknowledgement of receipt of goods and the principals were not asked to write another acknowledgement receipt, which can be provided laterif necessary. Copies of the following documents from the Ministry headquarters were availed for audit verification:

1. Form S11 – Counter Requisition and Issue Voucher for student lockers;
2. Form S11 – Counter Requisition and Issue Voucher for student chairs;
3. Form S11 – Counter Requisition and Issue Voucher laboratory stool;
4. Form S11 – Counter Requisition and Issue Voucher printer and tonner
5. Form S11 – Counter Requisition and Issue Voucher text books (Maths , Biology);
6. Form S11 – Counter Requisition and Issue Voucher for Biological equipment and chemicals;
7. Form S11 – Counter Requisition and Issue Voucher for Chemistry –new chemistry kit, Chemistry chart, periodic table and Physics kit);
8. Form S11 – Counter Requisition and Issue Voucher for learning support materials such as Mathematics table, black board ruler, black board protractors, black board compasses, black board set squares, model for globe, dice for teaching) (student lockers and chairs;
9. List of laboratory equipment and chemicals provided to schools.

On the supply of 15,267 two-seater school desks and storage boxes respectively to non-formal learning institutions, I wish to state that the goods were procured and issued to Directors of the institutions who countersigned Form S11 – Counter Requisition and Issue Vouchers for student desks 2 seater, assorted text books, and storage cabinet to 47 non-formal institutions. Sample copies of a list of 47 non-formal institutions that were issued with a total of 394 cabinets indicating name of the institution, name of Director or representative signature and mobile contact number, area of physical location (municipality) and Form S11 – Counter Requisition and Issue Vouchers for individual institution are available at the Ministry Headquarters for audit verification.

Committee observations and Findings

1. **The Committee noted that the documents had been availed to the auditors and verified.**
2. **The committee marked the matter as resolved.**

Committee Recommendation

The function of procuring school equipment should be devolved to the County Offices

Adverse Opinion by the Auditor General

The Auditor General reported that in his own opinion, because of the significance of the matters discussed in the Basis for Adverse Opinion paragraph, the financial statements do not present fairly, in all material respects, the financial position of the project as at 30 June 2015, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis), and do not conform to the loan and Grant Agreements dated 18 December 2008.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Further, and as required by the Bank, and except for the matters disclosed in the Basis for Adverse Opinion paragraph, he confirmed that:

1. Proper accounting records have not been kept.
2. The financial statements are not in agreement with the accounting records
3. All Bank funds have not been used in accordance with the conditions of the Grant and Loan
4. Agreements, with due attention to economy and efficiency and only for the purposes for which the funds were provided.
5. Counterparts funds have been provided and not used in accordance with the conditions of the Grant and Loan Agreements, with due attention to economy and efficiency and only for the purpose for which they were provided.

6. Goods and Services have not been procured in accordance with the Grant and Loan Agreements and in accordance with the Bank's rules and procedures.
7. Not all necessary supporting documents, records and accounts have been kept in respect of all project activities and clear linkages done not exist between the books of account and the financial statements presented to the Bank, as well as level of disbursement and physical completion stage.
8. The special accounts have not been maintained in accordance with the provisions of the Grant and Loan Agreements and in accordance with the Bank's rules and regulations.
9. A comprehensive assessment of the adequacy and effectiveness of the accounting and overall internal control systems to monitor expenditure and other financial transactions to ensure safe custody of Project financed assets has been carried out.
10. Ledgers as well as fixed assets register for the Project have not been maintained.

GOK/OPEC BASIC EDUCATION IMPROVEMENT PROJECT (OPEC LOAN NO. 910P)

Basis for Qualified Opinion

323. Prior Year's Unresolved Issues

323.1 Cumulative to-date Surplus

As reported in the previous year, the statement of receipts and payments for the year ended 30 June 2015 reflects Kshs.1, 109,632,640 and Kshs.1, 103,051,736 under accumulative to-date receipts and payments respectively, resulting in a cumulative todate surplus of Kshs.6, 580,904. The bank reconciliation statement however reflects a balance of Kshs.368, 588 as at 30 June 2015 resulting into unexplained/unreconciled variance of Kshs.6, 219,656. In the circumstances, it has not been possible to confirm the accuracy of the statement of receipts and payments.

323.2 Delays in Project Completion

As reported in 2013/2014, the GOK-OPEC Basic Education Improvement Project Agreement Loan No 910P was signed on 29 October 2002 between OPEC Fund for International Development and the Republic of Kenya and was expected to be completed by September 2005. Due to implementation challenges, several extensions were granted covering up to 29 February 2012. However, no information has been provided to show that the project was extended beyond February, 2012. The project has been dormant with no activities being undertaken over the last four (4) years. A comprehensive project evaluation progress report to show the current project status was not availed for audit review as at the date of this report. The management has also not given an explanation on the expected completion date.

Submission by the Accounting Officer

It was true the GOK/OPEC Basic Education Improvement Project Agreement Loan No. 910P was signed on 29 October 2002 between OPEC Fund for International Development and the Republic of Kenya and was expected to be completed by September 2005. However due to technical challenges e.g Needs Assessment and identification of benefiting schools, preparation of Bill of Quantities, among others it took long for the project to kick off. Implementation was delayed until 12th April, 2005, when the project was officially lunched. There were several extension requests which were made through the National Treasury, to facilitate completion of the ongoing projects; construction of classrooms, laboratories & toilets. However, the project lapsed, and The Treasury stopped releasing funds with effect from 2012/2013 Financial Year.

323.3 Non-Accounted for Assets

As reported in the previous years, the project assets include a digital video camera, a dell YX 2805D computer and two motor vehicles (Land Rover Defender S11) bought at Kshs.141,900, Kshs.504,000 and Kshs.5,346,000 respectively, all totalling Kshs.5,991,900. However, the digital video camera has since not been availed for physical verification and the management has not explained how the proceeds from disposal of the computer were accounted for in these

financial statements. In addition, no progress report had been availed for the two motor vehicles which were indicated as having been taken for repairs as at the time of the audit. The project management has not disclosed the particular garage where the vehicles were taken to since the vehicles were not available for physical verification as at the date of this report.

ITEM	UNITS	CONDITION/REMARKS
i. Video camera (Sony) & digital still camera (Sony)	2	These assets were in the custody of the national coordinator, the late Ruth Cheruiyot, who died in a fatal road accident, hence, cannot be traced.
ii. Computer (Del GX 280 sd	1	Is available and obsolete
Photocopier (KM 7530) (see appendix 1 of the audit query)	1	The photocopier is available in the G-United office and is obsolete
Fax machine (MitadF 610) (see appendix 1 of the audit query	1	It is obsolete
Land Rover (Defender 110 **GK A604K**	1	Was taken to CMC garage with major engine problem and was later sold in 2014 Mr.DennisMwendaMugo through public auction. **(*see attached annex* 323.3a*)***
Land Rover (Defender 110 - **GK A605K**	1	Was taken to Central Farmers Garage (CFG) for major engine overhaul. The vehicle is held at Central Farmers Garage due to an outstanding bill that is still in dispute. **(*see attached annex* 323.3b*)***

Committee Observation and Finding

The committee observed the query has been resolved since the documents have been provided and verified.

Committee Recommendation

The Accounting Officer must at all times ensure that the entity keeps complete financial and accounting records and provide all the required documents to the Auditor General in time pursuant to the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

24.2. STATE DEPARTMENT OF SCIENCE AND TECHNOLOGY

FINANCIAL STATEMENTS FOR VOTE 140

Prof Collette Suda, the Accounting Officer for Vote 140, State Department of Science and Technology accompanied by Dr. Kevit Desai, the Principal Secretary State Department of Technical and Vocational Education Training; Mr. Mutinda Alphonse, Director Vocational Education Training; Ms. Kobia Wakamau A, RA; Mr. Zachary Ooko, SADTE; Mr. Samuel Mugambi, Chief Finance Officer University Education; Mr. Peter Okwango, SA, V/E; Mr. Johnson Nyanumba, US, WE; Mr. Richard Sang, Financd Officer Eldoret Polytechnic; Mr. James M. Kiburi, Acting Director Vocational Education, University Education; Mr. Josephat K. Sawe, Principal Eldoret Polytechnic; Mr. John M. Ng'ang'a, Principal Account; Mr. Anthony Masinde, Chief Finance Officer; Mr. Anthony S. Masinde, Finance Officer; Mr. Elijah Obwori, SADTE and Mr. Robert A. Samuel, Assistant Accountant General appeared before the Committee on 17th September 2018, to adduce evidence on the audited Financial Statements for the financial year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

324. Accounts Receivable

As disclosed in note 13 to the financial statements, the accounts receivable balance of Kshs.540, 884.15 includes outstanding imprest of Kshs.73, 150 which also includes Kshs.23, 150 due from an officer who has since retired. The recoverability of the outstanding imprest of Kshs.23, 150 is therefore doubtful. Further, the trial balance as at the same date reflects a figure of Kshs.1, 023,790 being outstanding temporary imprests resulting in an unreconciled variance of Kshs.950, 640 between the two sets of records.

Submissions by the Accounting Officer

She submitted that Ksh. 73,150 has since been accounted for in cash vide MRNo.3261467 and MR.NO.3261133.She reported that the variance was caused by challenges of staff in understanding the new IPSAS cash reporting module resulting to IFMIS reports not tallying with the manual reports. The national treasury has since trained accounting staff on financial reporting and the trial balance has since been reconciled and now reflects the correct position on accounts receivable which is Ksh.540, 884.15.

Committee Observations and Findings

1. **The variance was caused by challenges of staff in understanding the new IPSAS cash reporting module resulting to IFMIS reports not tallying with the manual reports.**
2. **The national treasury has since trained accounting staff on financial reporting and the trial balance has since been reconciled and now reflects the correct position on accounts receivable which is Ksh.540, 884.15.**

3. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they adhere to the regime regulating issuance and recovery of imprest pursuant to the provisions of Regulation 93 of the Public Finance Management Regulations, 2015.

326. Pending Bills

Records maintained by the Ministry indicate that bills totaling Kshs.796, 079,111.27 were not settled during the year 2014/2015 but were instead carried forward to 2015/2016 financial year. The bills are likely to distort budget programmes for the subsequent financial year when they are settled.

In addition, payment vouchers amounting to Kshs.3, 996,361.30 were not availed for audit verification hence actual status of pending bills could not be established.

Submission by the Accounting Officer

The accounting officer admitted that it was true that records maintained by the Ministry indicated bills totaling Kshs. 796,079,111.27 were not settled during the year 2014/2015 and were instead carried forward to 2015/2016 financial year. The bills were not settled due to delays in presentation of the documents necessary for preparation of payment vouchers to accounts department, late release of exchequer funds from The National Treasury and late approval of revised budget. Payment vouchers amounting to Kshs. 3,996,361.27 which had not been submitted to office of the Auditor General have been availed for audit review as follows: -

Dry lands proactive services		1,706,896.55
Withholding VAT		93,103.45
Desol Enterprises		1,444,000.00
Jessie		375,000.00
North Coast		145,000.00
Laico Regency		117,600.00
Withholding VAT		24,886.00
Standard Media Group	(VAT)	6,318.00
Potential Suppliers (VAT)		39,770.00
KCB Leadership Group	(VAT)	17,267.30
Nation Media Group		26,520.00
TOTAL		**3,996,361.30**

ADDITIONAL INFORMATION SUBMITTED IN SUPPORT OF ABOVE RESPONSE:

1. List of pending bills for FY 2014/2015 of Kshs.796,079,111
2. Breakdown of pending bills of Kshs.3,996,361.30

No.	**Firm**	**Amount Payable To Supplier**	**Vat**	**Amount Paid**	
	Pending Bill				
1.	Dry lands proactive services	1,706,896.55	93,103.45		-1,706,896.55
2.	Desol Enterprises	1,444,000.00	-	-	-1,444,000.00
3.	Jesse	375,000.00	-	-	-375,000.00
4.	North Coast	145,000.00	-	-	-145,000.00
5.	KCB Leadership	316,566.30	17,267.30	-	-17,267.70
6.	Potential Suppliers	729,129.30	39,770.00	729,129.30	39,770.00
7.	Standard Group	115,830.00	6,318.00	115,830.00	6,318.00
8.	Nation Media Group	486,200.00	26,520.00	486,200.00	26,520.00
9.	Withholding VAT	24,886.00	-	-	24,886.00
10.	Laico Regency	117,600.00	-	-	117,600.00
	TOTAL				**3,996,361.30**

Committee Observations and Findings

1. **The bills were not settled due to delays in presentation of the documents necessary for preparation of payment vouchers to accounts department, late release of exchequer funds from The National Treasury and late approval of revised budget.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they prepare and submit supporting documents to annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

327. Under-Collection of Appropriations-In-Aid

Records availed for audit review indicate that the Development Appropriation Account for the year ended 30 June 2015 realized Appropriations-in-Aid of Kshs.2,885,382,931 against approved estimates of Kshs.4,207,600,000 resulting in an under-collection of Kshs.1,322,217,069 or approximately 31% of the expected receipts. Further, the Recurrent appropriation account reflects under head 0032 - Multimedia University of Kenya estimated receipts of Kshs.164,000,000 against actual collections of Kshs.65,293,177 resulting in an under collection of Kshs.98,706,823 or 60% of expected collections. No satisfactory explanations have been given for the above under collections hence an indication of low rate of absorption of funds.

Submission by the Accounting Officer

The accounting officer admitted that as per records availed for audit the Development Appropriation Account for the year ended 30 June 2015 realized Appropriation-in-Aid of Kshs. 2,883,382,931 against approved estimates of Kshs. 4,207,600,000 resulting into under-collection of Kshs. 1,322,217,069 or approximately 31% of the expected receipts.

The AIA in question relates to donor funded projects for which direct payments are made on submission of certificate of completion and claims. The Accounting officer stated that the Ministry was unable to utilize the remaining amount of money under the Directorate of Technical Training and Higher Education mainly due to delay in submission of claims by the suppliers of specialized equipment and contractors of various donor funded projects, and the delay in finalization of 2nd supplementary budget estimates as funds were only released on the last two days of the financial year.

While budgeting, the department had envisioned that most of the specialized equipment to be purchased for the institutions will be delivered during the period and payments be made. However, some of the suppliers experienced challenge of equipment taking long to be manufactured since the equipment is not "off-the-shelf" but rather custom made meaning a supplier has to make an order then wait for the equipment ordered to be manufactured; this hindered them from delivering the equipment as expected hence delay in making the payment thus leading to low absorption. All the suppliers have since delivered the specialized materials and have been paid and the other phases of the project are on course.

It was true that the recurrent appropriation account reflects under head 0032 – Multimedia University of Kenya estimated receipts of Kshs. 164,000,000 against actual collections of Kshs. 65,293,177 resulting into an under collection of Kshs. 98,706,823 or 60% of expected collections. He said that the budget for AIA collections was overestimated. the overestimation is attributed to the fact that prior to Multimedia University being upgraded to a University, it was a college offering training to Government officers in post and telecommunication sector in the entire East African region; this mandate, then enabled the institution to collect more AIA since the governments of the East African region, used to pay fees to the institution for the training of employees from the post and telecommunication sector. With the upgrading to a university status, the institution could no longer raise AIA through this activity. However, this factor was not considered during the budget making process hence the under collection.

Committee Observation and Finding

The Ministry was unable to utilize the remaining amount of money under the Directorate of Technical Training and Higher Education mainly due to delay in submission of claims by the suppliers of specialized equipment and contractors of various donor funded projects, and the delay in finalization of 2nd supplementary budget estimates as funds were only released on the last two days of the financial year.

328. Unsupported Expenditure

328.1 Scholarship in Australia

Examination of payment vouchers revealed that the Ministry paid Kshs.3, 744,032 vide payment voucher no 11200 dated 29 June 2015 in favour of PS Ministry of Foreign Affairs in respect of education scholarships for two students in Australia. However, no evidence of supporting approvals and details of the type of courses paid for was availed for audit review. In the circumstances, the propriety of expenditure of Kshs.3, 744,032 paid to Principal Secretary, Foreign Affairs could not be confirmed.

Submission by the Accounting Officer

It was true that the Ministry paid Ksh 3,744,032 for Education Scholarship for two students in Australia via payment voucher number 11200, the education scholarships were awarded to Ian Nderitu Githinji and Sandra Njeri Githinji through a letter from of the P. S, Secretary to the Cabinet and Head of the Public Service ref: OP. CABI/84A. Sandra Njeri Githinji was enrolled for a bachelor's degree in Interior Design and Ian Nderitu Githinji, Master of Analytics. Ian Nderitu's authority was for two and half (2 1/2) remaining years while Sandra s covered a period of four (4) years. The sponsorship was to cater for tuition, accommodation and upkeep for the period thereby indicated. He stated that the payments were made within the sponsorship period and for the courses sponsored. The evidence supporting approvals and the details of the type of courses has since been availed for verification.

The letter of approval for payment of scholarships for Ian and Sandra Nderitu signed by the former President H. E Mwai Kibaki.

Approved amount for the courses

Name		**Approved Amount**
Sandra Njeri Githinji	-	12,763,477.00
Ian Nderitu Githinji	-	8,560,316.00
Total		**21,323,793.00**

No.	**Name**	**Date Paid**	**Amount Paid**
1.	Sandra Njeri Githinji	25/3/2013	3,378,522.00
2.	Ian Nderitu Githinji	25/3/2013	5,167,874.00
3.	Ian & Sandra	29/6/2015	3,744,032.00

4.	Ian & Sandra	27/11/2015	5,342,496.00
5.	Ian & Sandra	19/3/2014	7,908,133.00
Total			**25,541,057.00**

The campus indicated that the programme fees may change on an annual basis by an amount not exceeding 7.5% per year.

Ambassador Francis Muthaura former Head of Civil Service in the year under review, submitted to the Committee as follows:

1. That the father of two had lost his job with Oil Libya while his two children had just gone to Australia.
2. The children were devastated to learn that their father could not afford to pay for their education and efforts to raise funds from family and friends were not yielding results
3. In a desperate situation, Mr. Githingi appealed to his Excellency the president for government scholarships. The President responded positively and directed him to facilitate on the same.
4. Via the letter Ref.OP.CAB.1/84A, he instructed Prof. Crispus Makau Kiamba the then Permanent Secretary, Ministry of Higher Education to facilitate the award of scholarship to the two students

Evidence from Prof Cripsus Makau Kiamba, former PS Ministry of Higher Education Science and Technology submitted to the committee as follows:

1. He received instruction from Prof. Nick Wanjohi, the then private Secretary to the Former President His Excellency Mwai Kibaki, to facilitate the two needy students.
2. He wrote to Amb. Francis Muthaura requesting for his approval and he was granted
3. Having received authorization from the then head of Civil Service, he facilitated the scholarship award to the two needy students.

Committee Observations and Findings

1. **Ambassador Francis Muthaura the then Head of Public purported to coomunicate instructions on behalf of retired President, H.E. the Mwai Kibaki to Prof. Crispus Makau Kiamba the then Permanent Secretary, Ministry of Higher Education to facilitate the award of scholarship to the two students.**
2. **Ambassador Francis Muthaura and Prof Nick Wanjohi could not provide any proof of official communication from the President pursuant to the provisions of Article 135 of the Constitution that requires** a **decision of the President in the performance of any function of the President under the Constitution shall be in writing and shall bear the seal and signature of the President.**

3. **The Committee noted that Amb Francis Muthaura wrote to Prof Kiamba to support students on purported instructions from retired President HE Mwai Kibaki.**
4. **The Committee further noted that a second letter was written from Prof Nick Wanjohi to Prof Kiamba on purpoted instructions from from retired President HE Mwai Kibaki.**
5. **There was no evidence tabled to support the President issued a communication pursuant to the provisions of Article 135 of the Constitution that requires** a **decision of the President in the performance of any function of the President under the Constitution shall be in writing and shall bear the seal and signature of the President.**
6. **The Committee established that the total amount that paid towards the scholarship of the two students was Kshs 25,541,057.00.**

Committee Recommendations

Amb Francis Muthaura and Prof Nick Wanjohi should be reprimanded for enforcing a purpoted presidential directive that did not meet the requirements of Article 135 of the Constitution.

328.2 Per Diem to Japan

Further, documents available indicate that Kshs.141, 997 was paid as quarter per-diem to an officer who had obtained a full scholarship to Japan for a Master's Degree course. However, the payment of quarter per diem was contrary to Code of Regulations and Office of the President Circular No. OP/CAB 2/12A dated 1st November 2004 which states that quarter per diem is only payable where a training award/scholarship organized under bilateral arrangements caters for only tuition and accommodation but does not include meals, out of pocket and stipend. No satisfactory explanation for the payment of the quarter per diem has been provided. In the circumstances, it has not been possible to confirm that Kshs.141, 997 was made in the best interest of taxpayers.

Submission by the Accounting Officer

The accounting officer admitted that as per documents available during the audit, Kshs. 141,997 was paid as quarter per-diem to an officer who was undertaking a Master's Degree course in Japan. The officer was to attend a long course (one lasting 3 years). The amount was paid as quarter per diem for daily subsistence during the travel days. We have observed that there was an error in processing the payment and we have initiated the process of recovery from the beneficiary.

ADDITIONAL INFORMATION SUBMITTED IN SUPPORT FOR THE ABOVE RESPONSE:

The evidence that a letter was posted for recovery of Kshs. 141,997 being payment of quarter per Diem was tabled before the Committee.

Committee Observation and Finding

The Committee observed that the issue had been resolved since the explanations and supportive documents had been supported.

329. Nugatory Payments

Examination of payment vouchers availed for audit review revealed that the Ministry paid an amount of Kshs.13, 995,160 and Kshs.70, 189,200 towards construction of North Rift Technical Training Institute and Ekerubo-Geitai Technical Training Institute respectively. Included in the total amount of Kshs.84, 184,360 is Kshs.4, 364,591 being penalties for late payments of previous certificates. The Ministry has attributed failure to pay the contractor on time to challenges in release of exchequer. In the circumstances the penalty paid of Kshs.4, 364,591 was not a proper charge against public resources.

Submission by the Accounting Officer

It was true that the Ministry paid an amount of Kshs. 13,995,160 and Kshs. 70,189,200 towards construction of North Rift Technical Training Institute and Ekerubo-Geitai which includes Kshs. 4,364,591 being penalties for late payments of the previous certificates arising from the late disbursement of exchequer releases from the National treasury. The interest on delay of payment of certificates was charged in accordance with the contract agreement Ref No. MOEST /NCB/ TIVET/20/2011-2012 clause No. 23.3

Committee Observations and Findings

1. **The Ministry paid an amount of Kshs. 13,995,160 and Kshs. 70,189,200 towards construction of North Rift Technical Training Institute and Ekerubo-Geitai which includes Kshs. 4,364,591 being penalties for late payments of the previous certificates arising from the late disbursement of exchequer releases from the National treasury.**
2. **The Committee marked the matter as resolved**

Committee Recommendations

330. Construction of Proposed North Rift Technical Training Institute

The statement of receipts and payments for the year ended 30 June 2015 reflects acquisition of assets figure of Kshs.14, 886,307,700 which includes an amount of Kshs.120, 471,459 paid to a contractor towards the construction of the proposed North Rift Technical Training Institute. Examination of contract documents indicates that the project commenced on 14 August 2012 at a contract sum of Kshs.291, 738,610.88 for a contract period of sixty-five (65) weeks ending 12 November 2013. However, the current status reports indicate that the project was incomplete and that the contractor is still on site. No evidence of extension of contract period was availed for audit review and no satisfactory explanation has been given for the delay in completion of the project.

Submission by the Accounting Officer

The accounting officer admitted that the then Ministry of Higher Education Science and Technology entered into a contract with Pyramid Construction Limited in August 2012 for the construction of North Rift TTI and that the contract was to be concluded on 12th November 2013.

The contractor was still on site during this period. The cause of the contractor's delay was compensatory in that the insecurity situation in East Pokot had made it impossible to complete the project on time; the contractor had been made to close the site severally as a result of deadly skirmishes in the area that caused his workers to flee to safety on several occasions and this has not changed; On overall the contract status is at 50%, and the contractor is committed to concluding the remaining works. Extension of the contract period had been granted for the period under review.

Committee Observations and Findings

1. **The contractor was still on site during this period. The cause of the contractor's delay was compensatory in that the insecurity situation in East Pokot had made it impossible to complete the project on time; the contractor had been made to close the site severally as a result of deadly skirmishes in the area that caused his workers to flee to safety on several occasions and this has not changed.**
2. **The Committee marked the matter as resolved**

331. Purchase of Furniture for Technical Training Institutes

The statement of receipts and payments for the year ended 30 June 2015 reflects Kshs.14,866,307,700 under acquisitions of assets and includes a disbursement of Kshs.50,000,000 towards cost of operationalization and purchase of furniture in the newly completed Technical Institutes. However, physical verification of various Institutes in September 2015 revealed that no furniture had been bought and delivered to the Institutes. Consequently, the propriety of the amount of Kshs.50, 000,000 disbursed to Institutes could not be ascertained.

Submission by the Accounting Officer

The accounting officer admitted that the statement of receipts and payments for the year ended 30 June 2015 reflected Kshs. 14,866,307,700 under acquisition of assets which includes a disbursement of Kshs. 50,000,000 disbursed to newly completed Technical Institutes for operationalization and purchase of furniture.

He stated that in the financial year ended 30th June 2015 the then State Department of Science and Technology disbursed the funds to ten (10) newly established Technical Training Institutes through Institutions earlier charged with the responsibility of mentoring these new institutions. The State Department disbursed this money for operationalizing of the institutions and not for the sole purpose of buying furniture; the Ministry advised the mentoring Institutions to utilize the money in adherence to the Public Procurement and Disposal Act and the Public Financial Management Act. Attached please find returns from the Institutions on how the money was utilized. The same has also been availed for audit review.

Committee Observations and Findings

1. **The Department of Science and Technology disbursed the funds to ten (10) newly established Technical Training Institutes through Institutions earlier charged with the responsibility of mentoring these new institutions.**
2. **The returns from the Institutions on how the money was utilized has been availed for audit review.**
3. **The Committee marked the matter as resolved**

332. Construction of Nine (9) New Technical Institutes in Various Counties

Included in the acquisition of assets figure of Kshs.14,886,307,700 is Kshs.105,000,000 disbursed towards construction of nine technical training Institutes in various counties which lacked such Institutions. Their construction begun in the financial year 2012/2013 and were to be completed within one year. Records and other related documents available at the Ministry indicate that the Institutes were incomplete yet their contract periods had already lapsed. No evidence of approval of contract period extensions was availed for audit review. In the circumstances, the stakeholders did not obtain value for their resources since the Institutes are not yet completed and put into their intended use.

Submission by the Accounting Officer

It was true that Kshs. 105,000,000.00 was disbursed towards construction of nine TTIs in counties. It was also true that construction of the TTIs was to be completed within one year. However, due to delay in release of further funding for construction of the 9 TTIs, it became necessary that the contract periods be extended. The Project Managers worked out the extensions to contractors and the client (mentors). Currently 3 of the 9 TTIs are complete while the other six are still under construction but with challenges as given in the table that follows;

S/No.	Institution	Status	Reason for delay
1.	Kerio Valley Technical Training Institute	Almost Complete	Completion was delayed due to low budgetary allocation and insecurity in the area during the project period; however, the contractor was on site and completion level was at 99%.

2.	Chepareria Technical Training Institute	Incomplete	Structural issues that led to collapse of suspended slab. Contractor instructed to revive the project.
3.	Lamu Mpeketoni Technical Training Institute	Roofing ongoing	Insecurity has affected progress.
4.	Tana River Technical Training Institute	Incomplete	Insecurity has affected progress, however contractor is on site and completion level is at 90% extension has been approved up to 18th August, 2018.
5.	Garbatula Technical Training Institute	Incomplete	Insecurity and floods has affected progress; progress is at around 46%. extension has been approved up to 18th August, 2018.
6.	Laikipia East Technical Training Institute	Almost Complete	Awaiting certification. A principal has already been posted to the institute.
7.	Kimasian Technical Training Institute	Complete.	
8.	Tharaka Technical Training Institute	Complete	Completion was delayed due to low budgetary allocation during the project period.
9.	Samburu Technical Training Institute	Complete	Completion was delayed due to low budgetary allocation during the project period.

Authority of contracts' extensions of time and completion certificates were provided to the Committee.

Committee Observations and Findings

1. **The Authority of contracts' extensions of time and completion certificates were provided for audit review.**
2. **The Committee marked the matter as resolved.**

333. Transfers to Other Government Units

The Statement of receipts and payments reflects Transfers to Other Government Units balance of Kshs.49, 542,728,230 which includes an amount of Kshs.2, 899,618,245 in respect of grants to National polytechnics, Technical Training Institutes and Institutes of Technology. However, an audit inspection carried out on development projects undertaken in the Institutes across the country revealed the followingunsatisfactorymatters:

333.1 Rent Arrears

Audit examination of various rent records maintained in Technical Training Institutes revealed that two (2) institutes were owed a total of Kshs.2, 477,581 by various tenants occupying the Institute's staff houses. Some of the rent arrears were due from staff who had been transferred. No evidence of any positive measures being taken by the Institutes to recover the outstanding rent arrears from the concerned persons were seen. In the circumstances, the Institutes risk losing rent arrears totaling Kshs.2, 477,581 due from staff who have since been transferred.

Submission by the Accounting Officer

It was true that two institutes namely Kitale and Mawego Technical Training in Institutes were owed a total of Kshs. 2,477,581 by various tenants occupying the institute's staff houses. Some of the rent arrears were due from staff who had been transferred. We state that Kitale National Polytechnic has since recovered Ksh. 204,346. Efforts are being made to recover the outstanding balance of Ksh. 1,849,210. Mawego Technical Training Institute has recovered Kshs. 266,879 and efforts are being made to recover the remaining Kshs. 157,146. Schedules indicating how the money was paid up have been forwarded to auditors for review.

Committee Observations and Findings

1. **The Accounting Officer is making efforts to recover the outstanding balance of Ksh. 1,849,210. Mawego Technical Training Institute has recovered Kshs. 266,879 and efforts are being made to recover the remaining Kshs. 157,146. Schedules indicating how the money was paid up have been forwarded to auditors for review.**
2. **The Committee marked the matter as resolved.**

333.2 Creditors

Scrutiny of Creditors' records in various Technical Training Institutes revealed that eight (8) Institutes owed various suppliers amounts totaling Kshs.25, 753,413 for procurement of goods and services. It is not clear why the Institutes have not settled the overdue debts some of which have been outstanding for over three (3) years. Failure to settle debts as and when they fall due may expose the Institutes to additional costs arising from litigations and may affect the normal operations of the Institutes.

Submission by the Accounting Officer

It was true that Creditor's records in various Technical Training Institutes revealed that eight (8) institutes owed various suppliers amounts totaling Kshs. 25,753,413 for procurement of goods and services. He explained that some debts have since been cleared and the current status is as shown in the table below:

Institute	Balance as at 30th June, 2015	Amount paid	Outstanding balance	Remarks
Mawego	2,718,898	2,356,898	362,000	Other creditors are being settled on

				demand
Bushiangala	1,626,098	1,626,098	-	All debts cleared
Sigalagala	15,866,278	15,866,278	-	All debts cleared
Kisiwa	5,156,504	4,166,474	990,030	Efforts are being made to settle the debts as funds are available
Kaiboi	3,976,633	3,976,633	-	All debts cleared
Kitale	5,706,459	5,194,918	511,541	The remaining debts were not fully supported
Kiirua	6,045,229	6,045,229	-	All debts cleared
Nyandarua	4,042,358	4,042,358	-	All debts cleared

Committee Observations and Findings

The Accounting Officer tabled a schedule with status of outstanding paymenst owed for each instution whci indicated that 5 institutions had cleared their debts.

Committee Recommendations

The Accounting Officer must ensure that the remaining institutions clear all their debts.

333.3 Outstanding Imprests

Examination of imprest records revealed that various staff had not surrendered or accounted for imprests after completion of various activities for which the imprests were advanced contrary to Government Financial Regulations and Procedures. Three (3) institutes had outstanding imprests of Kshs.4, 471,785 which remained un-surrendered as at the date of this report. It is not clear and management has not explained when and if the outstanding imprest will be recovered.

Submission by the Accounting Officer

It was true that imprest records revealed that various staff had not surrendered or accounted for imprest after completion of various activities for which the imprest were advanced contrary to Government Financial Regulations and Procedures. It was also true that three (3) Institutes had outstanding imprest of Khs. 4,471,785 which remained un-surrendered as at the date of the audit report. He stated that the three institutes which had issued imprests to their staff, Sigalagala TTI had all its officers cleared of outstanding imprests as at 30th June 2015. Mawego TTI and Eldoret National Polytechnic settled the outstanding imprests as follows:

Institution	**Outstanding imprest**	**Imprest recovered**	**Balance**
Mawego	1,199,360	1,170,360	29,000
Eldoret	3,272,425	3,272,425	nil
Sigalagala	36,990	36,990	Nil

Committee Observations and Findings

Sigalagala TTI and Eldoret National Polytechnic had settled the outstanding imprests while Mawego TTI was yetto recovere a balance of kshs 29,000.

Committee Recommendations

The Accounting Officer must ensure that the remaining institution recovers the remaining imprest.

333.4 Irregular Transfer of Funds

A review of available records indicated that three (3) Technical Training Institutes irregularly reallocated a total of Kshs.18,643,295 from Development Account to other recurrent accounts contrary to the Ministry's directives and guidelines Ref MST/DTVET/9/13/167 dated 8 April, 2015 which states that under no circumstances should development funds be diverted for other uses. No satisfactory explanation has been provided for the above anomaly and the stakeholders may not have obtained value from the development resources. The Institutes were therefore in breach of the law.

Submission by the Accounting Officer

The accounting officer admitted that it was true that three (3) Technical Training Institutes irregularly reallocated a total of Kshs. 18,643,295 from Development Account to other recurrent accounts contrary to the Ministry's directives and guidelines Ref MST/DTVET/9/13/167 dated 8 April, 2015 which states that under no circumstances should Development funds be diverted for other use. He stated that no other funds were available in other votes and the institutes were suffering financial distress as at that time which necessitated use of such funds. The funds were later returned. Documents supporting the return of funds to recurrent have since been availed for audit.

Committee Observations and Findings

1. **The funds were eventually returned. Documents supporting the return of funds to recurrent have since been availed for audit.**
2. **The Committee marked the matter as resolved**

334. Accounts Payable

Note 14 to the financial statements reflects Kshs.123, 738,232 described as Liabilities – (retention, bursaries Taxes etc) whose individual item analysis was not provided for audit review. In the absence of the detailed item analysis, it has not been possible to confirm the validity accuracy and completeness of the accounts payable balance of Kshs.123, 738,232.

Submission by the Accounting Officer

It was true that Eldoret polytechnic received Kshs. 40,222,019 which was disbursed from the Ministry of Education. The disbursements were partially done on 3rd may, 2012 of Ksh

37,900,000.00 and on 2nd July, 2012 Ksh. 5,627,019.80 was remitted thus totaling Ksh. 43,527,019.80 which differed with the contract sum. The balance of Ksh. 2,322,019.80 was included in the tranche of Ksh. 5,627,019.80 though there were no advice notes to that effect. The first disbursement was made to operations account No. 01021027668101 instead of infrastructure account No. 01021027668105 hence was treated as operations disbursements but the funds were used for infrastructure.

The project was managed by the Board of Governors and supervised by the Public Works who were our Project Managers. The Public Works usually raised the certificates for works done and the Board settled the obligations thereto. The site meetings were held and chaired by the project manager from Public Works and attended by both the members of the board of Governors, the Management and the contractor.

Copies of the following relevant financial documents which were provided for audit review.

- Bill of quantities
- Tender Evaluation Minutes
- Tender Award Minutes
- Notification Award Letter
- Contract Agreement
- Bank Statements
- Cash Book summary

It was also true that during the physical verification of the project done in September 2015, showed that the project was incomplete. The project was delayed at the start because there were some land disputes.

Copies of the following documents as evidence in support of the delay were provided:

- Advocate's letter from the complainant dated 3rd May, 2012. The project has been completed. In fact, it was handed over to Moi University and already put to use.
- Receipts and documents which form evidence in support of the completion of Kshs. 1,894,087,514
- Minutes of the handing over/Taking over dated 2nd March, 2016.

Committee Observations and Findings

1. **The project was delayed at the start because there were some land disputes and documents as evidence in support of the delay.**
2. **The Committee marked the matter as resolved.**

Other Matters

335. Budgetary Control and Performance

The Ministry of Education, Science and Technology-State Department of Science and Technology had a total budget of Kshs.71, 189,411,265 voted for the financial year 2014/2015 comprising of Kshs.14, 383,099,313 for development and Kshs.56, 806,291,952 for recurrent votes respectively. The budget absorption in the department was as follows: -

Item	Budgeted Allocation	Actual Expenditure 2014/2015	Under Absorption 2014/2015	Absorption in %
Recurrent	56,806,291,952	55,859,533,212	946,758,740	98%
Development	14,383,099,313	12,489,011,799	1,894,087,514	87%
Total	**71,189,391,265**	**68,348,545,011**	**2,840,846,254**	**96%**

Records availed for audit review indicates that Kshs.302, 329 under Recurrent Vote had been allocated towards social security benefits yet during the year under review, there was no expenditure under the item representing 100% budget under-absorption. Further, Kshs.882,230,115 had been allocated as subsidies under the Recurrent Vote while actual expenditure was Kshs.468,890,000 resulting to an under absorption of Kshs.413,115,115 or 47% of total allocation. Idle funds was an indication of lack of facilities and services to the education sector which impacts negatively on promotion of quality education in the Republic of Kenya.

Submission by the Accounting Officer

No response was submitted for this paragraph

Committee Observation and Finding

The Committee marked the matter as resolved as the matter did not relate to misuse of funds but failure to plan.

336. Economic Stimulus Programme- Proposed Bomet Technical Training Institute

Records held at the Ministry indicate that a total amount of Kshs.40, 222,019 was disbursed vide payment vouchers No.313 of Kshs.37, 900,000 and No. 559 of Kshs.2, 322,019 dated 2 May 2012 and 29 June 2012 respectively to Eldoret Polytechnic towards construction of the proposed

Bomet Technical Training Institute under the Economic Stimulus Programme (ESP). Additional information availed from Eldoret Polytechnic indicates that a firm was awarded the contract to construct Bomet Technical Training Institute and that the works commenced in 2011.

It was however not clear how the contract was being managed and how the project finances were operated. Although it was explained that Kshs.40, 222,019 disbursed from the Ministry was handled by former management, no relevant financial and contractual documents such as tender documents, cash book, bank statements, bank account, bank reconciliation statements, bills of quantities, cheque books were availed for audit verification. Physical verification of the project in September 2015 revealed that the project was incomplete and the contractor was not on site.

Further, no explanation has been provided as to why the project is incomplete despite full contract amount having been released by the Ministry. In the circumstances, the propriety of the expenditure of Kshs.40, 222,019 could not be confirmed and it is not clear if the stakeholders will get value for their money on the project.

Submission by the Accounting Officer

It was true that Eldoret polytechnic received Kshs. 40,222,019 which was disbursed from the Ministry of Education. The disbursements were partially done on 3rd may, 2012 of Ksh 37,900,000.00 and on 2nd July, 2012 Ksh. 5,627,019.80 was remitted thus totaling Ksh. 43,527,019.80 which differed with the contract sum.
The balance of Ksh. 2,322,019.80 was included in the tranche of Ksh. 5,627,019.80 though there were no advice notes to that effect. The first disbursement was made to operations account No. 01021027668101 instead of infrastructure account No. 01021027668105 hence was treated as operations disbursements but the funds were used for infrastructure.

The project was managed by the Board of Governors and supervised by the Public Works who were their Project Managers. The Public Works usually raised the certificates for works done and the Board settled the obligations thereto. The site meetings were held and chaired by the project manager from Public Works and attended by both the members of the board of Governors, the

Management and the contractor.

Copies of the following relevant financial documents which were provided for audit review.

- Bill of quantities
- Tender Evaluation Minutes
- Tender Award Minutes
- Notification Award Letter
- Contract Agreement
- Bank Statements
- Cash Book summary

It was also true that during the physical verification of the project done in September 2015, showed that the project was incomplete. The project was delayed at the start because there were some land disputes.
Copies of the following documents as evidence in support of the delay were provided

- Advocate's letter from the complainant dated 3rd May, 2012
  The project has been completed. In fact, it was handed over to Moi University and has been put to use.
- Copies ofthe documents which form evidence in support of the completion and handing over to the user.
- Minutes of the handing over/Taking over dated 2nd March, 2016

Committee Observations and Findings

1. **The Ministry to provide policy proof that allowed conversion of Technical Schools to Universities by the then Cabinet Secretary.**
2. **The Committee directed the Office of the Auditor General to verify the documents brought forward by the State Department and report back to committee as soon as possible.**
3. **The matter remained Unresolved.**

337. Mawego Technical Training Institute

337.1 Stalled Project/Incomplete Classrooms

On 22 December, 2009 the Institute contracted a firm to construct ten (10) classrooms at a contract sum of Kshs.11, 897,384. As the works commenced, the Institute varied the project to include one more floor to accommodate six (6) extra classrooms and the contract sum revised to Kshs.22, 437,050.60, by a variation of Kshs.10, 539,666.60 or 88.5% of the original contract sum which exceeds the allowable 15%, contrary to the provisions of section 47(b) of the Public Procurement and Disposal Act, 2005 and its Regulations of 2006.

Further, the Bills of Quantities reflect a provision of Kshs.440, 000 for electrical works. However, a physical visit revealed that no electrical works had been installed in the building. In addition, the ground floor did not have a structural beam in the middle of the slab and instead a round, metallic tube had been reinforced which has negatively impacted on the quality of workmanship.

In addition, payment schedules availed for audit review indicate that the contractor has been paid Kshs.20,147,214.60 which is about 90% of the revised contract sum as at June, 2011 while the project is at about 50% complete and the contractor has since abandoned site. No satisfactory explanations have been provided for the non-completion of the project yet the contractor has been paid over 90% of the contract sum. In the circumstances, the stakeholders have not obtained value for their resources.

Submission by the Accounting Officer

It was true that the institute contracted a firm on 22nd December, 2009 to construct ten (10) classrooms at a contract sum of Ksh. 11,897,384. It was also true that the institute varied the contract by kshs. 10,539,666.60 or 88.5% of the original contract sum to include one more floor to accommodate six more classrooms. He however stated that the variation in the contract sum was agreed upon and approved by the tender committee as per attached minutes of the tender committee, (appendix 337.1a) and a letter from public works on the variations.

It was also true that the bill of quantities reflects a provision of kshs. 440,000 for electrical works, we however wish to state that the payment was done through approved interim certificates No.4 as prepared by the District works officer. The electrical works done at that time was fixing of sockets.

It was also true that the payment schedules availed for audit review indicates that the contractor has been paid kshs. 20,147,214.60 which is about 90% of the revised contract sum as at June,2011. We however wish to state that this was done as per interim completion certificates raised by public works the documents have been forwarded for audit review.

Committee Observations and Findings

1. **The Committee resolved to summon the then Permanent Secretary to shed more light on the matter.**
2. **The Committee marked the matter as resolved.**

337.2 Unsupported Withdrawals

Records availed for audit review from Mawego TTI revealed that cheques totaling Kshs.7, 009,363 were enchased against the Institute's Account. According to information available, the cheques drawn in favour of the Finance Officer on diverse dates were to cater for office expenses. However, no supporting information was provided to show how the amount withdrawn was utilized or the reason for enchasing the cheques totaling Kshs.7, 009,363 contrary to Section 5.5.14 of Government Financial Regulations and Procedures which require that all expenditure be properly supported and authorized. Consequently, it has not been possible to confirm the propriety of the expenditure totaling Kshs.7, 009,363 incurred by the Institute's Finance officer.

Committee Observations and Findings

1. **Committeedirected the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committee marked the matter as resolved.**

338. Bushiangala Technical Training Institute

338.1 Construction and Completion of a Library Complex

Documents available indicate that the Institute awarded a contract for the construction and completion of a library complex to a firm at a contract sum of Kshs.24, 463,865.47 with a completion date of 31 December, 2012. Records held at the Ministry revealed that Kshs.24, 463,865 has been disbursed to the Institute towards the project with the final disbursement of Kshs.5, 270,775 made in January, 2014, while payment records at the Institute revealed that Kshs.14, 988,264.59 had been paid to the contractor by April 2015. The variance of Kshs.9, 475,600 has not been accounted for.

Further, an audit inspection of the site in April 2015 revealed that the project was approximately 60% complete. No satisfactory explanation has been provided for the delay in completion of the project and no minutes in support of an extension of the contract period were availed for audit review. In the circumstances, it has not been possible to confirm if and when the project will be completed and how the balance of Kshs.9, 475,600 was utilized.

Submission by the Accounting Officer

It was true that Bushiangala TTI awarded a contract for construction and completion of a Library Complex to Intellect Contractors at a contract sum of Kshs. 24,463,364.95 with a completion date of 31 December, 2012. However, the Ministry disbursed a total of Kshs. 16,541,550 in two tranches of Kshs. 11,270,775 on 20 November 2012 and of Kshs. 5,270,775 on 18 December 2013. Copies of the bank statement with the disbursements highlighted have since been availed for audit review.

It was also true that during an audit inspection in April 2015. The construction works were at approximately 60% as a result of delay. Regarding the contract extension, the issue was deliberated on by Board of Management on 9th April 2015 and was approved on the strength that funds for the works were trickling in slowly from the Ministry as per statements attached. The documents have been forwarded to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committee marked the matter as resolved**

338.2 Construction and Completion of a Tuition Block

The Institute awarded a contract for the construction and completion of a tuition block at a contract price of Kshs.41, 698,868 in 2011. Although information available from the Ministry indicates that full allocation of the contract price was disbursed to the Institute and that the building had long been completed and in use, it was not clear why the contractor was still owed Kshs.2, 935,403.36. Further, the construction firm does not appear under the Institute's list of creditors and therefore the debt could not be authenticated. In the circumstances, the validity of the amount owed of Kshs.2, 938,403 could not be ascertained.

Submission by the Accounting Officer

He admitted that Bushiangala TTI awarded a contract of Kshs. 41,698,868 in 2011 to Wilkori building and Civil Engineering for the construction and completion of a tuition block. He further admitted that Wilkori Building and Civil Engineering had been erroneously omitted from the institution's list of creditors as at the time of this audit.

The contractor has since been included in the list of creditors and the institution paid him Kshs. 2,000,000.00 on 11 June 2015 (see attached bank statement) with a balance of Kshs. 935,403.36 to be paid upon completion of the works and which have been forwarded for audit review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committee marked the matter as resolved.**

339. Kisumu Polytechnic

339.1 Construction of a Library Block

Examination of records maintained by the Polytechnic showed that a construction firm was awarded a contract for construction of a library block in November 2011 at a contract price of Kshs.110, 672,456.60 for duration of 52 weeks. Examination of expenditure records revealed that Kshs.110, 489,846.68 or 99.8% of the initial contract sum had been paid to the construction firm by April 2015. An audit inspection in April 2015 showed that the project was about 70% complete. No explanation has been provided as to why 99.8% of the contract sum was paid when the project was only 70% complete and therefore way behind schedule.

Further, scrutiny of the Bill of Quantities, which reflects the proposed contract sum of Kshs.110, 672,456.60 revealed the following unclear issues:

i. An amount of Kshs.500, 000 was provided for clerk of works. It was however established that the clerk of works who is an employee of the Institute was not paid Kshs.500, 000 for the services he rendered.

ii. The contractor also provided for Kshs.200, 000 for the project manager's office. However, during the site visit no such structure was seen.

iii. Kshs.1, 500,363 was provided for in the tender to allow for any increase in the cost of labour and/or materials during the contract period. The same amount was again catered for under provisional sum for contingencies and fluctuations totaling Kshs.6, 000,000.

No satisfactory explanations were provided for the above anomalies. In the circumstances, it has not been possible to confirm that expenditure totaling Kshs.2, 200,363 was a proper charge against public resources.

Submission by the Accounting Officer

It was true that Kisumu Polytechnic awarded a contract for of Library block in November 2011 at contract price of Kshs. 110,672,456.60 for duration of 52 weeks. He however stated that there was a variation of 11.58% in the contract price that was making the total contract sum to be Kshs. 123,492,468.20, the payments made at that moment were therefore not at 99.8% of the contract price. These variations were recommended approved by the public works as per attached letter from the ministry of public works, REF: CWO/KSM/LIB/POLY/30 and attached confirmation letter of variation from the principal.

It was also true that an amount of Kshs. 500,000 was provided for clerk of works. He stated that these monies were paid to the contractor as per agreement, and the contractor paid the same to the clerk of works in tranches as per their agreement. Attached is the acknowledgement of receipt of the same by the clerk of works. The contract also provided for Kshs. 200,000 for project manager's office which we also wish to confirm was put in place.

It was also true that Ksh 1,500,360 was provided for as a firm price in the Bill of Quantities (BQ) in general preliminaries to take care of any increase in the cost of labour and or material during the execution of the project/contract. However, there was an additional provisional figure totaling to Ksh. 6,000,000 provided in the BQ which was to take care of any unforeseen omission or understated elements of the project due to the magnitude of the project and that is how the BQ was prepared by the engineers from public works/ county works.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible**
2. **The Committee marked the matter as resolved.**

339.2 Construction of Rumps

Information available also indicated that Kisumu Polytechnic entered into a contract with another firm to construct two (2) rumps at the science complex, laboratory and business/ICT block at a contract sum of Kshs.24, 660,301.12 on 12 October 2013 whereby as at the date of this report Kshs.19, 804,125.40 had been paid. Further, a performance bond that the contractor had given during the contract period had expired on 10 September, 2014 and had not been renewed. A physical site visit in April, 2015 revealed that the rumps had been partially completed while examination of records at the institute revealed the following anomalies:

i. The approved architectural designs for the rumps were not available for audit review.

ii. Included in the Bill of Quantities were provisional amounts of Kshs.2, 000,000 and Kshs.1, 000,000 for contingencies and electrical works installation respectively. However, the above works were not quantified in the Public Works certificate during payment and therefore the nature of the works could not be ascertained.

In the circumstances, it was not possible to confirm the propriety of the total expenditure of Kshs.19, 804,125.40 on the project.

Submission by the Accounting Officer

It was true that Kisumu Polytechnic entered into a contract with Pacific General Works Ltd to construct two (2) ramps at the Science complex, laboratory business/ICT block at a contract sum of Kshs. 24,660,301.12 on 12 October 2013. However, the project was completed and handed over in September, 2015 as per handing over certificate attached which was provided.

It is true that the approved architectural designs for the ramps were not availed for audit review during the visitation, we however confirm that the same were misplaced in a wrong file and were later located and are hereby availed for review (Appendix 339.2b).

It is also true that included in the bill of quantities were provisional amounts of Kshs. 2,000,000 and Kshs. 1,000,000 for contingencies and electrical works installation respectively. However, we did a Letter to Public Works dated 4th May, 2015 asking for the breakdown of the same.

The project was however completed as per attached certificate of completion and handing over certificate.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The matter remained unresolved**

339.3 Construction of Medical Laboratory and Clinic

Documents availed for audit indicate that on 8 January 2013, the Institute awarded and signed a contract with a construction firm to construct a medical training laboratory and a clinic at a contract price of Kshs.47,227,422 for a duration of one year (52 weeks). A site visit to the project in April 2015 revealed that, although the roofing of the building had been completed, the internal finishes were yet to be completed as per the bill of quantities and the contractor had abandoned the site and as a result the project had stalled.

Examination of payment records at the institute indicate that Kshs.44, 506.637.53 or approximately 93% of the contract sum had already been paid. It was further noted that the performance bond had expired on 4 January, 2014 and had not been renewed as at the date of this report.

Further, examination of contract documents revealed the following unsatisfactory matters:
i. The Institute sub-contracted the electrical and mechanical works at varied contract prices to Kshs.4, 725,292 and Kshs.7, 055,288 from the initial cost of Kshs.1, 908,000 and Kshs.4, 240,000 respectively. No satisfactory explanations have been provided for the irregular variations of prices.

ii. Further, included in the Bill of Quantities for mechanical works is supply and fixing of sanitary works at Kshs.4,013,870, and supply, delivery and installation of galvanized steel pipes priced at Kshs.1,589,141, supply, delivery and installation of fire equipment worth Kshs.444,200 and allowance for external water recirculation for Kshs.151,188, all totallingKshs 6,198,299. However physical verification of the building revealed that the works have not been done yet the sub-contractor had been paid a total of Kshs.6, 240,713.80. No satisfactory reason has been provided for paying for services that had not yet been rendered.

In the circumstances, the stakeholders may not have obtained value for their resources and the propriety of expenditure totalling Kshs.6, 240,713.80 could not be confirmed.

Submission by the Accounting Officer

It was true that on 8th January 2013, the institute awarded and signed a contract with a construction firm to construct a medical training laboratory and clinic at a contract price of Kshs. 47,227,422 for duration of one year (52 weeks). It was also true the contractor had abandoned the site and as a result the project had stalled. We wish to state that this was occasioned by the contractors demand for payment of Kshs 5 million which was outside the contract agreement and was not approved by the public works as per attached letters Ref: DDBL/KSMP/2014/007 and Ref: RWO/NYZ/BLDG/PROJ/61/VOL.II/25. The ministry of lands, housing and urban development wrote to the contractor via letter ref RWO/NYZ/BLD/PROJ/61/VIL.II/30 requesting the contractor to get back to site but the contractor was giving conditions that could not be met before going back to site. Due to the unending issues Kisumu polytechnic via Letter Ref: KR/HRA/R/OP/62/002/VOLII/135 requested for a mutual termination of the contract. The documents have been forwarded to the auditors for review. (Appendix 339.3a)

It was also true that the Institute subcontracted the electrical and mechanical works at varied contract prices to Kshs. 4,725,292 and Kshs. 7,055,288. He however stated that these figures were wrongly captured in the provisional sums as Kshs, 1,800,000 and Kshs 4,000,000 as per letter Ref: KP/D/2/VOL.I/119 requesting for the correction of these. This was in accordance with the contract agreement signed stating the contract values as to Kshs. 4,725,292 and Kshs. 7,055,288 attached are copies of the contract and copies of the corrected price summaries and the same has been availed for audit review.

It was also true that the contractor had been paid Kshs. 6,240,713.80 for the mechanical works. He stated that this was as per certificates of payments raised by the public works attached for delivery of the materials. In addition, the installation could not be fully done since the building was incomplete, but since the contractor had not been fully paid, Kshs 7,055,288, the balance would be paid upon completion of the work that would involve installations and fixing. However, the project is 90% complete and works still continuing. The documents have been forwarded to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The matter was marked as resolved**

340. Kisiwa Technical Training Institute

340.1 Sanitation and Sewerage Works

Examination of records maintained at Kisiwa Technical Training Institute revealed that the Institute awarded a contract for the improvement of drainage and sewerage system at a cost of Kshs.10, 927,822. As at the time of audit Kshs.9, 754,134.50 or 89.2% of the contract sum had been paid while the project was not complete as per the Bill of Quantities.

Further, scrutiny of the Bill of Quantities relating to 2 ablution blocks under bill no. 2 and 3 respectively revealed that the cost included Kshs.160, 000 for water closet and wash hand basin facility for disabled persons. A physical verification on the site on 1 April 2015 revealed that the works have not been done. Further, the contactor was supposed to put up 12 dhobi sinks at Kshs.17, 000 in each of the ablution block. However, only 8 sinks were put up in each block resulting in works worth Kshs.136, 000 not having been done.

Additionally, the works included construction of staff toilets at a cost of Kshs.774, 480 in addition to supplying, installing and testing lighting in the ablution block at a cost of Kshs.106, 850. However, physical verification revealed that the works have not been done despite the payments having been made. Further, under bill no. 5, the contractor was to put up an ablution block for support staff at a cost of Kshs.349, 320. These works had not been done by the time of audit although they were already paid for. Under the circumstances, the propriety of the cost of excluded works amounting to Kshs.1, 526,650 could not be confirmed.

Submission by the Accounting Officer

It was true that Kisiwa Technical Training Institute awarded a contract for the improvement of drainage and sewerage system at a cost of Kshs. 10,927,822. The project had experienced delays but we wish to state that the contract is complete and has been handed over to the institute as per attached completion certificate and handing over certificate. The same was forwarded for audit review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The matter was marked as resolved**

340.2 Water Harvesting Project

Records availed for audit review indicates that a firm was awarded a contract for the construction of water harvesting project at a contract sum of Kshs.5, 611,640. Payment records revealed that Kshs.6, 467,137 was paid resulting in an unexplained overpayment of Kshs.855, 498. Further, the Bill of Quantities included Kshs.600, 000 for construction of an underground tank using approved blocks. However, as at the time of audit, and despite the fact that full payments had already been made, the tank had not been constructed.

Further, the contractor had been paid Kshs.1, 050,000 for electrical connections and a further Kshs.700, 000 being a variation due to underestimation of the distance to the dam. However, a physical visit to the site revealed that the distance was approximately 800m and not 1.5km as was indicated. The distance to the dam was overestimated leading to a possible overpayment.

In addition, the contractor was paid Kshs.2,100,000 for supply and installation of three (3) plastic water tanks with a capacity of 24m3 on a common fabricated steel tower at Kshs.700,000 each for the same water harvesting project. However, physical verification revealed that the contractor supplied tanks with a capacity of 10m3 or 10,000 litres. Enquiries from various suppliers revealed that the price of 24m3 tank is Kshs.271, 000 while that of 10,000 litres is about Kshs.80, 000. The contractor therefore supplied water tanks with lower capacity at a total cost of about Kshs.240, 000 against the amount paid of Kshs.2, 100,000 resulting in an underperformance and overpayment of Kshs.1, 860,000.

In the circumstances, the propriety of the total expenditure of Kshs.5, 611,640 could not be ascertained and stakeholders may not have obtained value for their resources.

Submission by the Accounting Officer

It was true that a firm was awarded a contract for the construction of water harvesting project at a contract sum of Kshs. 5,611,640 and was paid Kshs. 6,467,137. This was due to the variation done on the contract due to change in distance to the dam - letter from the Ministry of Environment Water and Natural Resources was attached.

It was also true that the contractor had been paid Kshs. 1,050,000 for electrical connections and a further Kshs. 700,000 being a variation due to underestimation of the distance to the dam. He however stated that the variation was due to the initial way leave of distance of 300m being denied by private landowners and hence the redesigning of the new line for a distance of 1.5 km as per attached letter from the Ministry of Environment Water and Natural Resources. The document was forwarded to the auditors for review.

It is also true that the contractor was paid Kshs. 2,100,000 for supply and installation of three (3) plastic water tanks with a capacity of 24m3 on a common fabricated steel tower at Kshs 700,000 each for the same water harvesting project. He also stated that the cost was not just supplying the tanks but also erection of fabricated steel tower.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**

2. **The matter was marked as resolved**

340.3 Tuition Block Phase II Project

Documents available indicate that on 3 February 2012 the Institute awarded a contract for the construction of a tuition block phase II to a contractor at a contract sum of Kshs.23, 167,908 for a contract period of 24 weeks commencing at a date which was to be agreed upon with the project engineer. Available information as at 6 June 2015 indicate that an amount of Kshs.26,440,969.95 had been paid to the contractor resulting in an overpayment of Kshs.3,273,061.95, representing about 14% of the total contract sum.

Further, out of the payments of Kshs.26, 440,969.95 paid to the contractor, Kshs.22, 700,861.15 was not supported by valuation certificates from the Ministry of Public Works as required. In addition, two payments amounting to Kshs.6, 500,000 were paid to the contractor as advance/mobilization fee of which no recoveries were made from subsequent payment certificates.
The unjustified overpayments to the contractor of Kshs.3, 273,061.95 and unrecovered mobilization fee of Kshs.6, 500,000 are not a proper charge to public resources.

Submission by the Accounting Officer

It was true that on 3rd February 2012, the Kisiwa Institute awarded a contract for the construction of tuition block phase II to a contractor at a contract sum of Kshs. 23,167,903 for a contract period of 24 weeks commencing at a date which was to be agreed with the project engineer.
It was also true that an amount of Kshs. 26,440,969.95 had been paid to the contractor. We wish to state that this was as a result of variations done on the project and the documents have been availed for audit review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**

2. **The matter was marked as resolved**

340.4 Unaccounted for Expenditure

Examination of records maintained at the Institute, further revealed that the Finance Officer made cash withdrawals of Kshs.687, 800 on various dates. The withdrawals could however not be verified due to lack of relevant supporting documents. Consequently, propriety of the expenditure of Kshs.687, 800 could not be ascertained.

Submission by the Accounting Officer

It was true that the Finance officer made cash withdrawals of Kshs. 687,800 on various dates. The copies of the vouchers that were used to draw the monies were attached and availed for audit review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The matter remained Unresolved**

341. Shamberere Technical Training Institute

341.1 Undelivered Software

Examination of expenditure records at the Institute revealed that Kshs.260,000 was paid in favour of a firm vide payment voucher No.1856 dated 24 November 2014 and invoice No.1035 dated 12 October 2014 in respect of supply of software.

However, the software had not been delivered as at 30 June 2015, more than seven (7) months after payment. This is contrary to the provisions of Public Finance Management Act, 2012, other Ministry's guidelines and Public Procurement and Disposal Act, 2005 and its regulations of 2006 which require that payment for goods procured be made after delivery, inspection and acceptance of the goods by the users. The Institute was therefore in breach of the law.

Submission by the Accounting Officer

It was true that Kshs. 260,000 was paid in favor of a firm vide payment voucher No.1856 of 24th November, 2014 and invoice No.1035 dated 12th October, 2014 in respect of supply of software. The software was however delivered on 12/10/2014 as per Delivery No.1035, Goods Received Note No.4478, Inspection and Acceptance Form.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The matter was marked as resolved**

341.2 Irregular Allowance

Examination of records maintained at the Institute revealed that allowances totalling Kshs.571,650 were paid to various members of staff in respect to responsibility allowances and airtime. Payment of these allowances were however not supported by Board approval and it was not possible to confirm that Kshs.571,650 was a proper charge to public resources.

Further, an amount of Kshs.100,000 was paid to a firm for Architectural drawings, Bill of Quantities and structural drawings against invoice no. EB 2014-03 dated 4 August 2014 of

Kshs.165,000. However, it is not clear why the Institute engaged private practitioners instead of Public Works officers.

Submission by the Accounting Officer

It was true that that allowances totaling Kshs. 571,650 were paid to various members of staff in respect to responsibility allowances and airtime. However, Board minutes approving the budget are hereby attached.

It was also true that the Institute engaged private practitioners instead of Public Works officers. This was done with the consent of Public Works Officers who were busy by then: Official communication letters from the Institute and the response from the Public Works were attached.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The matter was marked as resolved**

342. Eldoret Polytechnic

342.1 Construction of Institutional Management Laboratory and Kitchen Annex

Examination of payment vouchers and summary records of Eldoret Polytechnic revealed that the Institute engaged a contractor for a labour only contract towards erection and completion of institutional management laboratory that also included a kitchen annex. Further scrutiny of the payment records revealed that, the Polytechnic contracted for consultancy services and separately procured materials from prequalified suppliers. However, the Institute failed to provide relevant supporting procurement records. Further, as at the time of site visit, the only records available were payment vouchers and expenditure summaries which indicate that the Institute had spent Kshs.39,486,190 for purchase of building materials and Kshs.31,486,190.00 for labour and consultancy services. No other supporting documents such as works valuation certificates were availed for audit review. However, scrutiny of the payment vouchers supporting disbursements availed by the Ministry revealed that the Institute received Kshs.105, 850,000 in the financial years 2010/2011 – 2013/2014. The certificates examined for the main food laboratory revealed that the initial cost of Kshs.152, 000,000was varied to Kshs.275, 000,000an increase of Kshs.123, 000,000 or about 81% which has not been explained.

Further, examination of the same public works certificates attached to the vouchers revealed that construction of the laboratory – Kitchen annex cost was varied from Kshs.120, 000,000 to Kshs.225, 000,000, an increase of Kshs.105, 000,000.00 or about 88%. Despite these substantial payments to the contractor, the project is incomplete and no status report on level of completion from Public Works was availed for audit review.

In the circumstances, it has not been possible to establish the nature and terms of this contract and to confirm that the above costs totaling Kshs.275, 000,000 were a proper charge to public funds.

Submission by the Accounting Officer

It was true that the above project was labour based as supported by B.O.G Minutes and was not awarded to a single bidder. He noted that they acknowledged that at the time of the audit inspection they could not immediately access the documents as raised because they were to be retrieved from the institution's archives; however, they were able to retrieve the same later. A Consultant by the name Eng. Alex Buigut was engaged competitively to supervise the above project. Refer to Consultant acceptance letter. Procurement records in regard to Tender Committee procedural records have been attached and include the following:

- Prequalified Suppliers
- Evaluation Committee Minutes

It was true that it was not possible to distinguish payments relating to Laboratory or the Kitchen Annex. The laboratory and the kitchen annex was one project housing the Institutional Management & Food Laboratory (IM & FL) AND a Kitchen Annex. The building was enjoined and the works were not practicably separate for the twin blocks. In fact, public works certificates indicated the project as one referred to as 'PROPOSED ERECTION AND COMPLETION OF INSTITUTIONAL MANAGEMENT AND FOOD LABORATORY (KITCHEN ANNEX) AT ELDORET POLYTECHNIC MAIN CAMPUS'. Refer to the Public Works Certificate NO.5 dated 11th August, 2013.

It was true that the initial total cost of the project was kshs. 152,000,000. This was before the additional new design of a Kitchen Annex was enjoined costing Ksh. 60,000,000. The break down for the overall project cost was Ksh. 250,000,000 as indicated below;

1. Initial project cost without the Kitchen Annex refer to Cert. no.5 dated 28.9.2009 Ksh.152M
2. Labour cost as per cert. no. 6 dated 6th October, 2011 Ksh. 15.2M
3. 15% variation as per cert. no. 12 dated 10th October, 2012 Ksh.22.8M
4. New design Kitchen Annex as per cert. no. 2 dated 17th September, 2012 Ksh. 60M The project is complete and in use. Attached is completion certificate and summary of statement for payments on accounts which have been forwarded to auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

343. Construction of an Applied Science Laboratory

Examination of available records in the Ministry indicate that in 2011/2012 and 2012/2013 financial years, funds totaling Kshs.49,650,000 were disbursed to Eldoret polytechnic towards the construction of an Applied Science Laboratory project. However, scrutiny of the Public Works certificates availed by the Ministry indicated that the initial estimated project cost of Kshs.62,000,000 was varied to Kshs.285,000,000 by unexplained variance of Kshs.223,000,000.00 or about 360%. Further, no procurement and payment records relating to the project were availed for audit review and the project had stalled as at the time of the audit.

In the circumstances, the propriety of the variation of Kshs.223, 000,000 could not be confirmed.

Submission by the Accounting Officer

It was true that in the year 2011-2013 Kshs. 49,650,000 was disbursed to Eldoret Polytechnic towards construction of Applied Science Laboratory Project. The total project cost was Kshs. 60,000,000 as per certificate No.1 dated 2nd February, 2009. That was a non-storey building structure. However, in the subsequent period the structure was revised to carry one storey (First floor) and the cost was then revised to Ksh. 120,000,000 as per the certificate No. 4 dated 26th September, 2009.

The college in the period between 2011-2013 utilized the total amount disbursed as per the auditor's observations. Apparently if there were any subsequent requests for variations to Ksh. 285,000,000 as raised in the query, then they were not honored because PPOA had scrapped labour based contracts and any requisition for variations were not disbursed because of the legal dispensation then (Refer to the polytechnic's letter Ref: P/ADM/1/18 dated 12th October, 2011). Thus, the project stalled due to non-funding of the same. However, the works were later on awarded through tender system. Refer to Tender award dated 30th June 2015, Notification of award to the contractor namely Harmo Engineering &Building Co. Ltd and acceptance of the same dated 17th July 2015 which have been forwarded to auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

344. Unsigned Schedules for Payment of Labourers

Examination of payments records reveals that the Institute paid Kshs.12, 698,880 to casual workers but the supporting schedules were not signed by the respective workers. Further, available information indicated that some of the workers rendered services in many different areas within a week. It is not practical for one to be engaged in the works of walling, roofing, plastering, plumbing, electrical works and keying at the same time. In the circumstances, the total expenditure of Kshs.12, 698,880 on labourers could not be confirmed as a proper charge to public funds.

Submission by Accounting Officer

The auditors stated that during audit inspection, the record revealed that the Institute paid Kshs.12, 698,880 to casual workers whose supporting schedules were not signed by the respective workers.

The true position was that the requisitions for payment were usually done prior to actual payments with the list which indicated amounts to be paid and copies of the same were then used by the supervisor to pay and at that point each labourers would sign against his/her names and be filed in the payroll. This would be way later after cash requisitions had been done.

In this situation then, what was referred to as 'unsigned schedules' were cash requisitions for the laborers awaiting cash disbursements by the supervisor. Payroll schedules which were duly signed by laborers upon payment by the supervisor have been attached and the same have been forwarded to auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved.**

345. Kiirua Technical Training Institute

345.1 Stalled Library Complex Project

Examination of the procurement records at the Kiirua institute revealed that on 20 December 2011 the tender committee awarded a contract for the construction of phase one of the proposed library complex to a contractor at a contract cost of Kshs.32, 923,770 for a contract duration of 25 weeks. The contract was signed on 13 February, 2012 and the works commenced on 14 February 2012, an extension of completion period of 18 weeks was sought and granted by the client resulting in revised contract duration of 43 weeks.

Further, records held at the Institute revealed that a variation of Kshs.11, 858,435 or approximately 38.35% of the contract sum was sought from the parent Ministry by the project manager. The Ministry declined the variation and thereafter the project manager scaled down the works to save an estimated amount of Kshs.11, 422,025. As at the time of audit Kshs.25, 542,506.40 had been paid to the contractor yet the building had only been done up to first floor and thereafter stalled. No evidence of approval of variation of scope of works as required by section 47 of the Public Procurement and Disposal Act, 2005 was availed for audit review. The variations also exceeded the 15% acceptable threshold as per the then Act. Although the project was incomplete, the contractor had written demand notices of payment of the outstanding balance on certified amount together with the accrued interest. In the circumstances the stakeholders may not have obtained value for their resources.

Submission by the Accounting Officer

It was true that on 20th December, 2011, the tender committee awarded a contract for the construction of phase one of the proposed library complex to a contractor at a contract cost of Kshs. 32,923,770 for a contract duration of 25 weeks. It is also true that an extension of completion period of 18 weeks was sought and granted to the client resulting in revised contract duration to 43 weeks.

It was also true that a variation of Kshs.11, 858,435 was sought from the parent Ministry by the project manager. The ministry declined the variation and therefore the project manager scaled down the works to save an estimated amount Kshs.11, 422,025. We however wish to state that the project was completed as per attached certificate of completion and handed over as per attached handing over certificate which has also been forwarded to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

346. Rwika Institute of Technology

346.1 Construction of the Multi-Complex Hall

Examination of available records indicate that on 22 September 2011, the Institute awarded a contract for the construction of a Multi complex hall to a contractor at a contract sum of Kshs.51,435,699 for a period of 52 weeks. Examination of records held at the Ministry revealed that Kshs.53, 000,000 had already been disbursed to the institute towards completion of this development project out of which only Kshs.28,351,830.29 had been paid to the contractor as at 30 June 2015 leaving an unutilized balance of Kshs.24,648,170. The resultant difference of Kshs.24, 647,025 has not been accounted for. Further, physical verification of the project/building revealed that the project stalled at the superstructure level and there are no progress reports indicating the percentage of completion. It was also noted that the contractor vacated the site in 2013. It is not clear and management has not explained if and when the project will be completed and when the stakeholders will obtain value for their resources.

Submission by the Accounting Officer

It was true the tender for construction of multi-Complex hall was awarded on 22nd September, 2011 at a contract sum of Kshs. 51,435,699 to Kamuti building contractors. This was an on-going project funded by the government of Kenya and the funding was piece-meal, i.e. bit by bit over various financial years. By the time the contract was being awarded, the government had not fully disbursed the total contract sum of Kshs. 51,435,699.

All the Ministry disbursements of fund for development purposes were received in the Institute Bank Account number 2026031233 in Barclays and then the funds were transferred to the Development Account number 112147226 in Kenya Commercial Bank. Bank statements are attached to show the transfer of funds and the Balance as at the time of audit.

It was true the contractor had deserted the site due to death of an employee (worker) on the site as a result of accident during the construction works on 19/12/2012; hence there were legal issues on the death of the worker. The contractor however went back on site and is continuing with the works as per attached photos and other accounting documents which have been given to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

346.2 Sewerage and Drainage System

Examination of records held at the Ministry and the Institute revealed that Kshs.19, 842,175 had been disbursed during the year under review as a special grant from the Ministry towards completion of the sewerage project. The Institute awarded a contract to a firm at a contract sum of Kshs.18, 482,222 towards completion of the above project. However, examination of payment records indicate that Kshs.15,556,216.35 has been paid to the contractor leaving a balance of Kshs.2,926,005.65 to the contractor and Kshs.4,285,958.65 as unutilized funds.

Further, the development account bank statements of the Institute as at 31 December 2014 reflect a debit balance of Kshs.1, 145 indicating that the amount transferred from Ministry as special grant had been exhausted.

In the circumstances, it was not possible to establish how the unutilized balance of Kshs.4, 284,813.65 had been utilized.

Submission by the Accounting Officer

It was true the institute was granted Kshs. 19,842,175.00 as a special grant for sewerage project. Tender for construction of sewerage project was awarded to M/S Pashiloh General Merchants at tender sum of Kshs. 18,482,222.00.

The Ministry disbursements of fund for development purposes were received in the Institute Bank Account number 2026031233 in Barclays and then the funds were transferred to the Development Account number 112147226 in Kenya Commercial Bank. Bank statements were attached to show the transfer of funds and the Balance as at the time of audit and the same forwarded to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

347. Construction Works of the Proposed Laisamis Technical Training Institute Available records indicated that the Ministry appointed Nyandarua Institute as a mentor of Laisamis Technical Institute. Nyandarua Institute awarded a tender for the construction of the proposed Laisamis Technical Training Institute to a contractor at a contract sum of Kshs.51, 545,661.50 for duration of fifty-two (52) weeks. However, examination of records and certificates from Public Works availed for audit verification revealed that the contractor had lodged an additional claim for payment of Kshs.3, 612,064 in respect of abortive works on the site. No satisfactory explanation was given as to how the abortive works arose and how the institute plans to finance the resultant excess costs of Kshs 3,612,064 as the project is a fixed sum contract.

Submission by the Accounting Officer

It was true that the Ministry appointed Nyandarua Institute as a mentor of Laisamis Technical Institute. Nyandarua Institute awarded a tender for the construction of the proposed Laisamis Technical Training Institute to a contractor at a contract sum of Kshs. 51,545,661.50 for duration of fifty-two (52) weeks. The abortive works arose due to a change of site that was earlier allocated for the construction of Laisamis TTI. The claim for abortive works amounts to Ksh3, 612,064.00. The contract sum was Ksh51, 480,861.50. The excess cost of Ksh3, 612,064 arose from the complaint lodged by contractor, subsequent evaluation and consultation between the contractor, the BOG Nyandarua Institute and the Secretary Ministry of Education.

The claim was forwarded to the Institute on 15th April 2015 and the same was forwarded to the Ministry on 4th May 2015.This claim was evaluated and recommended for payment by County Works Officer Marsabit County for works done, idle labour and machinery on site and the payment was done. Currently, the project is complete awaiting handing over.The same has also been availed to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

348. Construction of a Tuition Block Phase II at Nyeri Technical Training Institute Records available indicate that the Institute awarded a labour only contract for construction of a tuition block to a contractor at a total cost of Kshs.12, 943,669.50 for a period of 48 weeks commencing on 28 February 2011. Verification of works done in April 2015 revealed that the works were incomplete and the contractor was not on site. No documentary evidence in form of tender minutes in support of extension of contract period was availed for audit review. Further, examination of payment vouchers availed for audit revealed that an amount of Kshs.10, 476,986.45 or 90% of the contract price had been paid to the contractor net of retention money. Although the project is incomplete no progress reports from Public Works Ministry indicating the level of completion were availed for audit review.

Submission by the Accounting Officer

It was true that the Institute awarded a labour only contract for construction of a tuition block to Chomba General Construction Company at a total cost of Kshs. 12,943,669.50 for a period of 48 weeks commencing on 28th February, 2011. The contract period was extended and the project is now complete with the practical completion done and handed over on 9th September 2015. Attached are approval for extension of contract period by the Ministry of Public Works, certificate of completion and handing over report. The certificate has been availed to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved.**

349. P.C. Kinyanjui Technical Training Institute

349.1 Construction of Resource Centre at PC Kinyanjui Technical Training Institute

In 2012/2013 financial year, the Institute awarded phase II of the above works to a contractor at a contract sum of Kshs.20, 225,192. A physical verification of the project in August 2015 revealed that the project was incomplete as finishes and metal fabrications had not been done. Thereafter, the contractor presented a claim for unpaid dues amounting to Kshs.11, 944,946. Although the institute disputed the claim, the management had not computed the actual amount due to the contractor.

Further, the contractor raised a parallel bill of quantities dated 7 April, 2015 comparing the original bill of quantities and the re-measured works for the project indicating that the project cost varied from Kshs.20,225,192 to Kshs.25,264,778 by Kshs.5,039,586 whose supporting analysis was not availed for audit review. In the circumstances, the Institute risks litigation from the contractor and may be in contravention of the Public Procurement and Disposal Act, 2005 and related Procurement and Disposal Regulations of 2006.

Submission by the Accounting Officer

It was true the institute awarded phase II of the above works to a contractor at a contract sum of kshs. 20,225,192. The contract whose sum of Ksh. 20,225,192.00 was for the 2nd phase of the whole project which was not expected to go to final completion. The roofing and the undone finishes were expected to be in phase III. Details of the actual works as detailed in the Bills of Quantities and form of Agreement have been submitted to auditors for review.

He also stated that there was no approval on the claim for variation by Ksh. 5,039,586.00, and thus was not paid.

It was important to note that the contractor was paid all the amounts due to him as per contract. Going by the discussion with the representatives of the contractor, no litigation was expected since the matter was been amicably resolved.

Committee Observation and Finding

The Committee marked the matter as resolved

350. Construction of Muranga Technical Training Institute

Records availed for audit review indicated that on 29 January 2014 the Ministry awarded a contract for the construction of classrooms, workshops and laboratory blocks for mechanical and civil engineering departments at the proposed Muranga Technical Institute at a contract sum of Kshs.261,365, 108 for a duration of seventy two (72) weeks ending 2 August 2015. However, examination of payment records and available progress reports as at 31 July 2015 revealed that Kshs.62,932,631.54 representing about 24% of the contract price had been paid to the contractor and the works were not complete as anticipated yet the completion period had almost lapsed.

No evidence of extension of contract period was availed for audit review and no explanation has been given for delay in completion of the project.

Submission by the Accounting Officer

It was true that the Ministry awarded a contractor for the construction of classrooms, workshops, laboratory blocks for mechanical and civil engineering departments at the proposed Muranga Technical Training Institute at a contract sum of Kshs. 261,365,108 for duration of seventy-two (72) weeks ending 2nd August 2015.

The delay in the contract completion has been caused by inadequate funding of the same. The contractor has on several occasions requested for extension of the contract period which has been granted. The project by the time of the meeting was at 58% completion. The report has been forwarded to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

351. Idle Equipment

Documentary evidence availed for audit review indicate that on 1 March 2011, the Government of Kenya through the Ministry of Higher Education entered into an agreement with the Republic of China represented by AVIC International Holding Corporation under the Kenya-China project on rehabilitation and upgrading of equipment in Universities and Technical Training Institutes. One (1) university and nine (9) Technical Training Institutes were supplied with electrical/ electronic engineering, mechanical engineering, rapid prototyping manufacturing laboratories and diesel generators at a cost of US $ 29,281,624 or approximately Kshs.2, 490,159,083. A physical verification of the equipment in all the ten Institutes revealed that the equipment have not been utilized to full capacity and the generators have also not been put to use. The Ministry has explained that the equipment requires a three (3) phase power supply to operate and that plans are underway to upgrade the power supply in order to operationalize the equipment. In the circumstances, the stakeholders may not have obtained value for their resources from equipment worth Kshs.2, 490,159,083 supplied to the ten (10) Institutions of higher learning.

Submission by the Accounting Officer

The Ministry has ensured that the equipment is put to use and value for resources is achieved through the following measures; Two trainers from the beneficiary institution were trained in China for 120 days, on the operation and use of the equipment to ensure efficient use of equipment and training of students. The institutions are now able to produce machine parts for local factories and private sector as a whole since the equipment is of industrial standard.

A transformer from Kenya power and lighting company to operate all the equipment has been installed in all the institutions except Keroka TTI (which is ongoing) through the support of the county governments and other stakeholders; however a 100 KW generator is in use at Keroka TTI.

At the moment more students are enrolled in mechanical and electrical engineering courses and are using the equipment that can be powered by the transformer available. Value for resources is realized as the institution can now offer training in mechanical and electrical engineering courses to more students with the state of art equipment in the workshops. A report on equipment usage from Shamberere and Keroka TTIs have been forwarded to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved.**

352. Unclear Development Expenditure

Examination of the Ministry's records revealed that Kshs.227,999,997 an**d** Kshs.304,999,999.80 all totalling Kshs.532,999,996.80 were disbursed during the year under review as development grants to the Technical Training Institutes and Institutes of Technology. However, no details of the specific projects to be undertaken or already done were availed for audit review. Further, enquiries from the recipient Institutes revealed that some did not have pending projects to be undertaken and they were also not instructed on how the funds were to be utilized. It was therefore not possible to confirm that the development grants disbursed to various Institutes were efficiently and economically utilized. In the circumstances, the propriety of the expenditure of Kshs.532, 999,996.80 incurred by the Ministry on various institutes could not be confirmed.

Submission by the Accounting Officer

It was true that the Ministry disbursed a total of Kshs. 532,999,996.80 during the year under review as development grants to Technical Training Institutes and Institutes of Technology. During the first half of FY 2014/2015 each of the 41 institutions received kshs.3, 707,317.00 for development expenditure. the criteria used for the disbursement was 50% of the total of kshs,304,000,000.00 in the budget was allocated to the institutions, as such ksh 152,000,000.00 was disbursed .The criteria used was approved by the ministerial grants disbursement committee the same has been forwarded to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

353. Extension of Fiber Optic Cable to TIVET Institutions Project

Examination of contract records availed for audit review indicate that on 25 July 2012, the Ministry awarded a contract for the design, supply and installation/extension of fiber optic to TIVET Institutions to enable them have internet connectivity within the institutions to a firm at a contract sum of Kshs.239, 705,045 and for a contract period of three (3) months effective immediately. Payment records availed for audit review indicates that Kshs.208, 286,455.70 or approximately 87% of the contract sum had been paid to the contractor as at 9 October 2014. Physical verification of the works during the month of April, 2015 in various Institutes revealed that although the infrastructure work was done, the 10mbps free bandwidth connectivity for one year provided for in the contract was not provided to the institutes.

Further, most of the Institutes were connected through radio link which was often interfered with by adverse weather conditions and also the contractor has not handed over the project to benefiting Institutes as at the date of this report. In the circumstances, it has not been possible to confirm if the stakeholders obtained value for their resources from the connectivity services.

Submission by the Accounting Officer

It was true the Ministry awarded a contract for the design, supply and installation/extension of fiber optic to TIVET Institutions to enable them have internet connectivity within th**e** institutions to a firm at a contract sum of Kshs. 239,705,045. It is also true that Kshs. 208,286,455.70 had been paid to the contractor as at 9th October, 2014. The payment was done after verification of the work done by qualified technical personnel in the TVET institutions and a team comprising of officers from the ICT unit in MoEST.

The contractor was required to install local area network and internet connectivity infrastructure in six (6) months, provide internet service for a period of twelve (12) months and provide parts for a period of three years.There was a delay in commencement of provision of internet bandwidth occasioned by a delay in completion of the installation of the infrastructure and equipment required for internet connectivity. This delay was as a result of:

1. Lack of line of sight from the nearest National Optic Fibre Backbone (NOFBI) internet access point to the institution. (Line of sight is required for successful signal transmission). It was a requirement that the last mile link be between NOFBI nearest internet access point and the institution.
2. Decommissioned or missing base stations linked to NOFBI; making it difficult to transmit to some of the institutions for the required one year during the time in question because the service commenced upon completion of infrastructure installation for each institution individually. Internet service has since been provided to 37 institutions.
3. Regarding the use of radio link, the contractor was required to provide internet connectivity using fiber in nineteen (19) institutions and radio link for twenty-one (21) institutions as per the contract requirements. This was because some of the institutions are far from the nearest NOFBI internet access point. An extract of the BQ showing the scope of work has been availed to the auditors for review.
4. Lack of equipment to handle the required bandwidth capacity at the anticipated internet access points. The capacities of the equipment in some of the access points could not be able to provide the expected 10mbps.

Committee Observations and Findings

The Committee marked the matter as resolved

DONOR FUNDED PROJECTS KENYA ITALY DEBT FOR DEVELOPMENT PROGRAMME (KIDDP)

Basis for Disclaimer of Opinion

354. Late Submission of Financial Statements

Section 68(2) k, of the Public Finance Management Act, 2012 requires Accounting Officers to prepare annual financial statements for each financial year within three months after the end of the financial year, and submit the same to the Auditor-General for audit. The financial statement for the Programme was received in this office on 30 October 2015 one (1) month after the statutory date of 30 September 2015. The management was therefore in breach of the law.

Submission by the Accounting Officer

It was true that the Financial Statements were submitted late for audit because we did not have all the information concerning the Project. The information took time to be received from the Ministry of Devolution and Planning. Prior to 2014/2015, the Directorate of Vocational Education and Training was under the defunct Ministry of Youth Affairs and Sports (MOYAS) and was formerly known as the Department of Youth Training (DYT), before it was transferred to the Ministry of Education, Science and Technology after reorganization of Ministries.

Following this reorganization of Ministries and Departments, the Ministry of Youth Affairs and Sports, finance and accounts sections that were dealing with the KIDDP project were moved to the Ministry of Devolution and Planning hence separated from the Department of Vocational Training. Consequently, the accounting documents/records for KIDDP project including the cash book were held up in the Ministry of Devolution and Planning (Department of Youth Affairs), this caused the delay in the preparation hence late submission of the Financial Statements for Audit for the financial year 2014/2015.

Committee Observations and Findings

The Committee marked the matter as resolved

355. Failure to Prepare and Submit for Audit 2013/2014 Financial Statements

Although the project management submitted 2014/2015 financial statements to the Auditor-General for audit, there was no evidence to show that the 2013/2014 financial statements were prepared and submitted for audit. This is contrary to Section 4 (1) of the Public Audit Act 2003 that require preparation of final accounts for every financial year. In the circumstances, the management is in breach of the law.

Submission by the Accounting Officer

It was true that there were no comparative figures for 2014-2015 with 2013-2014 as no financial statements were prepared for 2013-2014. This was because prior to 2014, the Department of 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 Youth Training (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. During this period of transition, KIDDP Project records of accounts 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 statement for the year 2013-2014 were not prepared. Further, there were no activities on the project in 2013- 2014 financial year. Copies of opening and closing bank balances were attached for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**

2. **The Committe marked the matter as resolved**

356. Balance Brought Forward

Statement of receipts and payments for the year ended 30 June 2015 reflects balance brought forward of Kshs.9, 522,133. However, it's not clear and the management has not explained the source and nature of the balance brought forward of Kshs.9, 522,133. Consequently, it has not been possible to establish the validity of the balance brought forward of Kshs.9, 522,133 reflected in these financial statements.

Submission by the Accounting Officer

It was true that the statement of receipts and payment for the year ended 30th June 2015 reflects a balance brought forward of kshs. 9,522,133. The figure of Kshs. 9,522,133 is the amount that was reflected in the statement of receipts and payments for year ended 30 June, 2013 as the balance carried forward. Since there were no activities conducted in the financial year 2013-2014, the amount remained as the opening balance on 1 July, 2014.The bank statement has been availed to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

357. Variances in the Financial Statements

The accuracy of these financial statements could not be confirmed due to the following anomalies:

357.1 The Statement receipts and payments reflects an expenditure of Kshs.11,100,400 under tools and equipment while records availed for audit review indicate actual expenditure of Kshs.8,190,400. The difference of Kshs.2, 910,000 is in respect of payments for the supply of ironing board, L-square, Knitting machine and sleeve board and whose supporting documents were not availed for audit review.

Submission by the Accounting Officer

It was true that statements of payments and receipts reflected an expenditure of Kshs. 11,100,400 on tools and equipment. This has since been corrected to Kshs. 8,190,400 as indicated in the management letter. The difference of Kshs. 2,910,000 payable to Parocky Enterprises was the normal GoK expenditure not related to the project. This payment voucher has been availed for audit review.

KIDDP Project made the payment as indicated below:

	Supplier	Amount (Kshs)
1.	Goldedge Suppliers	1,269,000

2.	Quicksteps Services	1,300,000
3.	Lamils General Suppliers	270,000
4.	Nyox Agencies	1,871,400
5.	Intesys Agencies	1,254,000
6.	Ellycohns	2,226,000
	TOTAL	**8,190,400**

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

357.2 The statement of comparative budget and actual amounts reflects a final budget figure of Kshs.97, 700,000 under proceeds from domestic and foreign grants. However, no approved budget supporting Kshs.97, 700,000 was availed for audit verification. Further, the statement reflects actual proceeds from domestic and foreign grants of Kshs.25, 641,449.50 which differ with the amount reflected in the statement of receipts and payments of Kshs.118, 600,000by an unexplained variance of Kshs.92, 958,550.50. In the circumstances, it has not been possible to confirm the accuracy and validity of proceeds from domestic and grants reflected in these financial statements.

Submission by the Accounting Officer

The figure of Kshs. 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 Kshs. 118,600,000 as indicated in the Receipts and Payment attached which was the final budget. Further the proceeds from domestic and foreign grants of Kshs. 25,641,449.50 that has since been adjusted to Kshs. 18,731,449.50 being the actual expenditure for the KIDDP Project for 2014/2015. This brought a variance of Kshs.99, 868,550.50 instead of the previous figure of Kshs.92, 958,550.50. This variance of Kshs. 99,868,550.50 comprising of 84.2% was because of the challenges of logistics as a result of devolution of Youth Polytechnic leading to delays in tendering for quotations and commencement of construction works. Financial Statements for year ended 30 June, 2015 Note 7 Statement of comparative budget were attached for verification.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**

2. **The Committe marked the matter as resolved.**

357.3 The statement of financial assets and liabilities as at 30 June 2015 reflects net financial position balance of Kshs.111, 386,280 which differs with the casted balance of Kshs.107, 875,486. The variance of Kshs.3, 510,794 has not been explained or reconciled. Consequently, the validity and accuracy of the statement of financial assets and liabilities as at 30 June 2015 could not be ascertained.

Submission by the Accounting Officer

It was true that the statement of financial assets and liabilities for the year ending 30th June 2015 reflected a net position balance of Kshs. 107,875,486. This has since changed to 109,834,224.65 after adjusting for disbursements to various counties of Kshs. 4,000,000. The difference of Kshs. 1,552,055.95 between bank balance of Kshs. 111,386,280.60 and cash book balance 109,834,224.65 partly consisted of bank charges and unpresented cheques as at 30 June, 2015. Bank Reconciliation and Bank Certificate attached for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

357.4 The statement of cash flows for the year ended 30 June 2015 reflects cash and cash equivalent at the beginning of Kshs.9, 522,133 which differs with the figure reflected under the statement of financial assets and liabilities of Kshs.5, 394,803. The variance of Kshs.4, 127,708 has not been explained or reconciled. Consequently, the validity of the cash and cash equivalents as at 30 June 2014 could not be ascertained.

Submission by the Accounting Officer

It was true that the statement of cash flows for the year ended 30 June, 2015 reflected cash and cash equivalent at the beginning of Kshs.9, 522,133 which differs with the figure reflected under the statement of financial assets and liabilities of Kshs.5, 394,803. The figure of 9,522,133 was the balance reflected in the Ministry of Youth Affairs and Sports which was at that time implementing the Kenya Italy Debt for Development Programme (KIDDP) as at 30 June, 2013. Figure of Kshs.5, 394,803 was the one reflected in the bank statement as at 30 June, 2013. The variance of Kshs.4, 127,708 was as a result of unpresented cheques and banks charges. Bank reconciliation statement were attached for verification.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

358. Cash and Bank Balances

358.1 The statement of financial assets and liabilities as at 30 June 2015 reflects cash and cash equivalents bank balance of Kshs.111,386,280.60 while the cash book as at the same date reflects a balance of Kshs.105,834,224.65 resulting to unexplained variance of Kshs.5,552,055.95. Further, the Project management did not avail a bank confirmation certificate in support of bank balance of Kshs.111, 386,280 as at 30 June 2015.

Submission by the Accounting Officer

It was true that the statement of financial assets and liabilities as at 30th June 2015 reflected a cash and cash equivalent bank balance of kshs 111,386,280.60. This was the actual amount available as bank balance as at that date. A copy of certificate of bank balance as of 30th June 2015 has been availed for audit review. The Cash Book balance after adjustment came to kshs. 109,834,224.65 and not Kshs. 105,834,224.65 as previously reported. The initial difference of Kshs. 5,552,055.95 has now been reduced to Kshs. 1,552,055.95 that partly consist of bank charges and unpresented cheques. A copy of bank reconciliation statement were availed for audit verification.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

358.2 Further, the bank reconciliation statement as at 30 June 2015 includes four (4) unpresented stale cheques totalling to Kshs.4, 000,000 which were being held by the project management. No explanation was provided as to why these cheques were neither released to the respective payees nor cancelled and reversed in the cashbook. Therefore, the cash book balance as at 30 June 2015 is understated by Kshs.4, 000,000. The reconciliation statement further reflects Kshs.244,744 as payments in bank statement not yet recorded in cash book out of which Kshs.1,100 relates to bank charges for 2015/2016 financial year. The amount of Kshs.244, 744 also includes prior year adjustment figure of Kshs.240, 529 whose supporting analysis was not availed for audit review.

Submission by the Accounting Officer

The reconciliation balance of Kshs. 4,000,000 has since been adjusted in the cash book. This was reflected in the bank reconciliation balance as at 30 June, 2015 composed of the four (4) cheques amounting to Kshs. 4,000,000.00. The cheques were not released because there was no National Government Officers on the ground appointed as AIE holders for the project following devolution of staff. The reconciliation statement reflects Kshs.244, 744. Copies of cancelled cheques were availed for audit verification.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

358.3 Also the reconciliation statement reflects a balance of Kshs.4, 330,000 as receipts in the cashbook not yet recorded in bank statement that has been outstanding for over two years. No satisfactory explanations have been provided as to why these receipts have not been deposited in the bank for the last two years. The cash book balance as at 30 June 2015 is therefore overstated by Kshs.4, 330,000.

In the circumstances, it has not been possible to confirm the accuracy, validity and completeness of the cash and cash equivalent balance of Kshs.111, 386,280.60.

Submission by the Accounting Officer

It was true that the reconciliation statement reflects a balance of Kshs. 4,330,000 as receipts in the cashbook not yet recorded in the bank statement. Funds meant for the KIDDP project amounting to Kshs.4, 330,000 were received by the Ministry of Youth Affairs and Sports in the Financial Year 2012/2013. However, the funds were received in the Ministry's revenue account instead of the project's account. When the anomaly was discovered the financial year had already expired. Subsequently the funds were recovered by the Treasury as part of unspent balances on 23 January, 2014. Copies of Central Bank Statements of former Ministry of Youth Affairs and Sports detailing the same have since been availed to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

359. Unconfirmed/Excluded Expenditure

Examination of payment vouchers revealed that Kshs.59, 724,550 and Kshs.24, 050,355.50 in respect of purchase of workshop tools and construction of workshops respectively under government counterpart funding were omitted from the financial statements. Further, Kshs.11, 100,400 and Kshs.5, 288,814 both amounting to Kshs.16, 389,214 reflected in the financial statements were incurred on tools and construction of workshops respectively under the loan component. However, no distribution list, returns, or acknowledgements from the beneficiary institutions supporting the receipt of the purchased tools and equipment was availed for audit review. In addition, the project management did not avail the project status progress report for audit review. In the circumstances, it has not been possible to confirm the propriety of the expenditure of Kshs.16, 389,214 on tools and construction of workshops for the year ended 30 June 2015**.**

Submission by the Accounting Officer

It was true that payments on payment vouchers amounting to kshs 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 project's financial statements. It is also true as the auditor had observed that the expenditure was incurred by the government of Kenya. Payment vouchers amounting to Kshs. 59,724,550 and Kshs. 24,050,350.50 omitted from the financial statements as expenditure on workshop tools and construction of workshops both totaling to kshs.83, 774,905.50, was purely the normal GOK expenditure as Kenya Italy Debt for Development Program (KIDDP) Project, does not have a GOK counterpart funding.

As for purchase of workshop tools amounting to Kshs.11,100,400 reflected in the audit report the actual figure for purchase of workshop tools was Kshs.8,190,400, the difference of Kshs.2,910,000 being payment for supply of ironing board, L-square knitting machine and sleeve board which was a normal GOK expenditure as per the attached payment vouchers. Kshs. 5,288,814 was the original figure for ongoing construction of workshops at Sina and Waondo Youth Polytechnics before adjustment of Kshs. 4,000,000, payable to County Directors, However, attached were the distribution lists of expenditure on tools and equipment and status of construction workshops for the year ended 30th June, 2015.

The Kshs.16,389,214 was the total of the original figure for tools and equipment of Kshs.5,288,814 and Kshs.11,100,400 before the correction of M/s Parocky Enterprises expenditure of kshs.2,910,000 that was a GOK expenditure, thereby reducing the tools and equipment expenditure to kshs.8,190,400 for the year ended 30th June, 2015.

1) **Below is the list of the normal GOK expenditure for Department of Vocational, Education and Training.**

Construction of workshops					
S/No.	**Pv No.**	**Date**	**Payee**	**Contract**	**Amount (Kshs)**
1	**1373**	**30.06.2015**	**Gigly Enterprises Ltd.**	**Construction of twin workshop at Tugumoi Polytechnic – Koibatek District**	**2,499,951.60**
2.	**1377**	**30.06.2016**	**Winam Contractors Ltd.**	**Construction of twin workshop at St. John's ACK machine Youth Polytechnic**	**2,499,511.70**
3.	**1362**	**30.06.2015**	**Film Building Contractors**	**Construction of computer laboratory block at Busia Township Youth Polytechnic**	**2,571,658.40**
4.	**1070**	**30.06.2015**	**Intrt;ectontr actors**	**Construction of workshop at Murhanda polytechnic Kakamega East District.**	**2,873,563.00**
5.	**1069**	**30.06.2015**	**Entthert Building and Constructio n Ltd.**	**Construction of twin workshop block at Musengo Youth Polytechnic, Kitui West District.**	**2,850,640.00**
6.	**1068**	**30.06.2015**	**Super Tag General Contractors**	**Construction of twin workshop block at Nyaga Polytechnic, Githuguri Sub-County**	**2,500,000.00**

7.	**1023**	**30.06.2015**	**Mile Constructio n Ltd.**	**Construction of twin workshop block at Kyemole Youth Polytechnic**	**3,210,960.00**
8.	**1058**	**30.06.2015**	**Microsoft Constructio n Company Ltd.,**	**Construction of Computer Laboratory block at Bura East,**	**2,562,000.00**
9.	**1055**	**30.06.2015**	**Zepheli Contractors**	**Completion of computer laboratory at Mogotia Youth Polytechnic**	**671,636.00**
10	**1053**	**30.06.2015**	**Isab Contractors**	**Completion of twin workshop at Umoro Polytechnic**	**200,000.00**
11.	**1058**	**30.06.2015**	**Thonror Building and Civil engineering construction Co. Ltd.**	**Construction of twin workshop at Iten Youth Polytechnic**	**1,211,234.80**
12	**1364**	**30.06.2015**	**Betech Contractors**	**Completion of twin workshop at Mogotia Polytechnic**	**399,200.00**
	Total				**24,050,355.0 0**
	Purchase of Tools and Equipmen t				

13.	**986**	**30.06.2015**	**Original Distributors**	**1) 10Pcs-Heavy duty welding Machine** **2) 10Pcs – Hydraulic pipe blender**	**2,670,000.00**
14	**1059**	**30.06.2015**	**Rages Suppliers Ltd.**	**1) 78Pcs-5000 Lrs plastic water tanks**	**4,290,000.00**
15	**1084**	**30.06.2015**	**Nipfam Company**	**1) 10Pcs – Drilling machine-Makita**	**760,000.00**
16	**1088**	**30.06.2015**	**Swan Solutions**	**1) 10Pcs -4 Stroke cycle engine (petrol) 1000cc (teaching model)** **2) 15Pcs-motor vehicles toolkit** **3) 3) 10 10Pcs-Gas welding machine** **4) 10Pcs – Plumbing tool kit** **5) 10Pcs-Portable concrete mixers** **6) 10Pcs – Metal fabricator kit** **7) 10Pcs – Auto Electrical toolkit**	**6,230,000.00**

18	**710**	**13.4.2015**	**Perifa Enterprises Ltd.**	**1) 10Pcs – Motor vehicle tool kit – complete** **2) 10Pcs – Mechanical tool kit Stanley APS** **3) 11 Pcs – Knitting machines APS** **4) 10Pcs Building tool kit – Complete APS** **5) 12Pcs – Electrical tool kit – Complete APS**	**4,449,000.00 1**
19	**708**	**13.4.2015**	**Target Agencies Ltd.**	**1) 4Pcs – Welding generators APS** **2) 12 Pcs – Desktop computers complete with monitors** **3) 12Pcs Uninterrupted power supply (UPS) 650VA.** **4) 12Pcs – Printer lacer jet**	**3,296,000.00**
20	**711**	**13.4.2015**	**Everest Industries**	**1) 7Pcs Welding machine heavy duty** **2) 10Pcs – Mini lathe machine** **3) 10Pcs Poker vibrator**	**3,935,000.00**

21	**1060**	**30.06.2015**	**Dap-del Chefter (K) Ltd.**	**1) 15Pcs-Over lock sewing MC (baby electric)** **2) 15Pcs- Meter ruler.**	**1,005,000.00**
22	**1083**	**30.06.2015**	**Triumph General Merchants**	**1) 10Pcs – Poker vibrator** **2) 10Pcs – Portable surface planning machine**	**4,869,550.00**
23	**1082**	**30.06.2015**	**Detailed Ventures Ltd.**	**1)10Pcs – Bench vice 12”** **2) 10Pcs – Metal Building machine**	**980,000.00**
24	**1031**	**30.06.2015**	**Red links logistics**	**1) 10Pcs – Carpentry and joinery kit**	**1,190,000.00**
25	**1022**	**30.06.2015**	**TalithaKumi Enterprises**	**1) 10Pcs – Welding transformer 3-phase** **2) 10Pcs – Trisquare 12”** **3) 10Pcs- Welding shield APS** **4) 10Pcs – Welding goggles STD** **5) 10Pcs – Anvill medium 71 england**	**2,287,000.00**

26	**1021**	**30.06.2015**	**Cecina Enterprises**	**1) 15Pcs – Lathe machine**	**2,175,000.00**
27	**1024**	**30.06.2015**	**Jovis Investment**	**1) 15Pcs – Garment making tool complete**	**1,050,000.00**
28	**1024**	**30.06.2015**	**Jimsan Enterprises**	**1) 15Pcs – Straight stiching treadle sewing machine with table stand** **2) 15Pcs – Electrical steam iron** **3) 15Pcs – Charcoal iron boxes**	**2,485,500.00**
29	**1026**	**30.06.2015**	**Rilnad Agencies**	**1) 25Pcs – G-clamp 3ft** **2) 25Pcs – G clamp 6ft** **3) 25 Pcs- Sash clamp 4ft** **4) 25Pcs – Gclamp 2ft** **5) 25Pcs – sash clamp 6ft** **6) 25Pcs – sash clamp 8ft**	**2,750,000.00**
30	**1027**	**30.06.2015**	**Ramaca Investments**	**15Pcs – Multipurpose zigzag sewing machine- singer**	**2,737,500.00**

31	**1028**	**30.06.2015**	**Jovis Investment**	**1) 15Pcs – Knitting machine** **2) 650 sevies/280 Knitter**	**2,475,000.00**
	Total				**59,724,550.00**

ii) Attached were copies of distribution lists and counter requisition and issued vouchers (S11) for tools and equipment purchased under KIDDP Project.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

360. Unresolved Prior Year Matters

360.1 Payment on Infrastructure Development

As reported in the previous years, the propriety of an expenditure of Kshs.44, 248,395.00 incurred in focus districts in the year 2009/2010 was similarly not ascertained during the year 2014/2015 as no expenditure returns were availed for audit review.

Submission by the Accounting Officer

It is true that KIDDP project funds worth Kshs, 44,248,395.00 were incurred in focus districts in the year 2009/2010. The funds were sent as AIEs to the Districts, received, deposited in the account and spent as per the attachment forwarded by the then Ministry of Sports and Youth Affairs by the respective District Youth Training Officers for rehabilitation of thirteen (13) Youth Polytechnic Projects. Copies of expenditure returns were submitted to the auditors for review.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved.**

360.2 Unposted Expenditure in Ministry's Records

As reported in the previous years, the statement of receipts and payments reflected total payments of Kshs.7, 529,051.80 which included expenditure of Kshs.2, 160,000.00 and Kshs.5, 369,051.80 relating to supplies and infrastructure development, respectively. However, the expenditure figures were not captured in the parent Ministry's ledgers and trial balance as at 30 June, 2013 from which the financial statements were expected to be drawn.

Submission by the Accounting Officer

It was true that the statement of receipts and payments reflected total payments of Kshs. 7,529,051.80 which included expenditure of Kshs. 2,160,000.00 and Kshs. 5,369,051.80 relating to supplies and infrastructure development. Prior to 2014/2015, the Directorate of Vocational Education and Training was under the defunct Ministry of Youth Affairs and Sports (MOYAS) before it was transferred to the Ministry of Education, Science and Technology after reorganization of Ministries.

Following this reorganization of Ministries and Departments, the Ministry of youth Affairs and Sports, finance and accounts sections that were dealing with KIDDP project were moved to the Ministry of Devolution and Planning hence separated from the Department of Vocational Training. Consequently, the accounting documents/records for KIDDP were held up in the Ministry of Devolution and Planning (Department of Youth Affairs). The Ministry was making efforts to obtain the ledger from the concerned Ministry.

360.3 Non-Disbursement of Programme Funds

As previously reported, the provisions of Article 1 (2) of the Financing Agreement between the Italian Government and the Government of Kenya require that each year, an annual installment of 10% of Euro 42,913,028.56 or Kshs.444,578,975.88 plus 10% of US$1,364,282.07 or Kshs.11,479,069.33 totalling to Kshs.456,058,045.21 be disbursed to a special account of the programme. However, during the year 2012/2013, the Ministry received Kshs.4, 330,000.00 only instead of Kshs.456, 058,045, contrary to the terms of Agreement between the Italian and Kenyan Governments. The issue remained unresolved as at the date of this report.

Submission by the Accounting Officer

It was true that the provision of Article 1(2) of the Financing Agreement between the Italian and Kenya Government provide that 10% Kshs. 456,058,045. (Four Hundred and Fifty-Six Million, Fifty-Eight Thousand and Forty-Five shillings) be disbursed to a special account of the programme. The Youth Sector is one of the many sectors from Government ministries that are funded under Kenya Italy Debt for Development (KIDDP) Project. At the beginning of each financial year, each sector develops proposals which are then presented to the National Technical committee for analysis before funds are allocated on a competitive basis.The youth sector did not get any funds in 2012/2013 financial year because it had ongoing projects which had to be completed and all the funds absorbed before getting any additional funding.

KIDDP funds are disbursed through the National Treasury. In 2012/2013 financial year, KIDDP funds of Kshs. 4,330,000 were received by the Ministry of Youth Affairs and Sports but received in the erroneous account at Kenya Commercial Bank instead of the specific (KIDDP) account. When the anomaly was discovered, the financial year had already lapsed. Subsequently, the funds were returned to The National Treasury as part of unspent balances on 23rd January, 2014. The exchequer issues sent from the National Treasury on 12th November, 2012 to the Ministry of Devolution and Planning, Department of Youth Affairs totaling to four million, three hundred and thirty thousand (4,330,000) shillings is the amount that was reflected as received in 2012/2013 financial year. A copy of exchequer issue was attached for ease of reference.

Committee Observations and Findings

1. **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
2. **The Committe marked the matter as resolved**

360.4 Incomplete Infrastructure Projects

As previously reported, the statement of receipt and payments for the year 2012/2013 reflected expenditure totalling Kshs.5, 369,051.80 incurred on infrastructure development. However, supporting documents examined indicated that six (6) of the projects for construction of three (3) twin workshops contracted during the year 2008/2009 valued at Kshs.101,900,352.95 and contract durations of eight (8) months each, had their contract periods expire by between forty (40) months and fifty (50) months as at 30 June, 2013.

Further, two (2) projects at Sigor and Kodich Youth Polytechnics had their contracts terminated due to non-performance with completion status of 10% and 85% respectively, while three (3) projects at Mariakani, Waondo and Sina Youth Polytechnics had a completion status of between 90% and 95%. As at the date of this report, the issues still remained unresolved.

Submission by the Accounting Officer

The Ministry had thirteen (13) construction projects under KIDDP from 2008 to date. While most of the projects were completed, commissioned and handed back to the communities, under the defunct Ministry of Youth Affairs and Sports (MOYAS) as the Department of Youth Training (DYT). A few challenges were faced during the implementation as listed below:

1. The Ministry was then newly formed (in December 2006) as operations started in 2007. Although a lot of effort was made to deploy officers to the Ministry, there were no enough field staff and therefore they had to share staff with other departments which made supervision of the project difficult. Some of the officers deployed at the field did not have relevant skills and the department spent more time in orienting them on Government working procedures, rules and regulations especially on procurement.

2. The contracts were awarded at the Districts and therefore it took quite some time before they were signed at the Ministry's Headquarters. Further, there was delay because of change of Accounting Officers as the incoming officer had to sign the contracts to facilitate payments.
3. Initially the funds took time to be released by the Treasury. The opening of District accounts also took long due to logistics involved such as seeking permission from the Treasury.
4. Inadequate capacity in the Ministry's field offices and at the Ministry of Works offices (the Project Manager and Clerk of Works) who assists the Ministry to supervise the works. This was a challenge because there was no direct supervision by the client Ministry. Also, Some of the Works Officers were transferred which further affected completion of the projects.
5. Another challenge was extreme weather conditions. The construction projects such as Sina Youth Polytechnic was greatly affected by short term and long rains, and therefore accessing it was difficult due to impassable roads which were damaged by floods. In an effort to fast track the completion of the projects, both Headquarters and field officers made several trips to monitor the projects. The result was that by 2012/2013, nine (9) of the Projects had been completed, commissioned and handed over to the community.

Committee Observations and Findings

The Committee marked the matter as resolved

Paragraphs 361 to 365

The auditors informed the committee that Paragraphs 361-365 remained unresolved as they are closed projects and details of the same were to be availed to the auditors for verification.

KENYA EDUCATION SECTOR SUPPORT PROGRAMME (KESSP)

364 Early Childhood Development Education (ECDE)

As previously reported, the statement of receipts and payments for the year ended 30 June 2011, showed nil expenditure under Early Childhood Development Education component and a cumulative expenditure of Kshs. 1,256,496,964. However, the figure of Kshs. 1,256,496,964 includes a grant of Kshs. 223,000 disbursed to a school in Eldoret, but which had not been accounted for. A review of the position in 2014/2015 financial year showed that the amount had still not been accounted for or recovered.

Submission by the Accounting Officer

It was tue that KShs.223,000 disbursed to a school in Eldoret could not be accounted for as of June, 2009.

I would like to state that, this matter was followed up where the Director Basic Education wrote to the DEO, Eldoret West, requiring him to recover the money lost from the head-teacher in question, Mr. Koech C. Edward, TSC No.255698. The current DEO has confirmed that TSC recovered KShs.70,810.00 which was the amount not accounted for at the time of audit.

364.5 Education Management Information System (EMIS)

As previously reported, the statement of receipts and payments for the year ended 30 June 2011, further showed a cumulative figure of Kshs. 27,217,823 under Education Management Information Systems (EMIS). The cumulative balance, however, included an expenditure of Kshs.1, 030,300 relating to transport reimbursements which had in 2008/2009 been considered as ineligible. The particular expenditure had not been resolved as at the date of these reports.

Submission by the Accounting Officer

It was true that the statement of receipts showed accumulative expenditure figure of KShs.27,217,823.50 as at June 30th 2011 under Education Management Information System (EMIS). The cumulative balance however, include an expenditure of KShs.1,030,300.00 relating to transport reimbursements which had in 2008/2009 been considered as ineligible.

With regard to issues raised in the above paragraphs, I wish to inform you that all documents relating to the activities were carried by Kenya Anti-Corruption Commission (KACC) and that various officers have been arraigned in court on account of cases related to them. In view of the above, it may not be appropriate to discuss these issues at this stage as some officers have been prosecuted and the remaining one their cases are yet to be concluded.

364.6 Grants To Disadvantaged Groups – Kshs.1,793,595.00

As reported in prior years, the statement of receipts and payments for the year ended 30 June 2011 also showed a cumulative expenditure figure of Kshs. 923,397 under grants to disadvantaged Groups. However, and included in the cumulative figure of Kshs. 923,464,397 is an amount of Kshs. 1,793,595 disbursed in 2008/2009 to seven (7) privately owned schools.

Although this amount was considered as constituting ineligible expenditure, no action appears to have been taken to resolve the matter as at the date of this report.

Submission by the Accounting Officer

It was true that the Appropriation Account also includes under Sub-Vote 311, Head 844 and amount of KShs.27, 227,020.00 which was disbursed to non-formal education centers spread across the country. It is also true that of this amount KShs.1, 793,595.00.00 were disbursed to seven (7) centers.

He clarified that all the seven (7) NFE schools produced registration certificate from the Ministry of Gender, Sports, Culture and Social Services which is a basic qualification for funding under this category. The schools were selected for funding through the normal process of the Ministry of Education verification and validation. They all meet the Ministry's criterial for funding which are: Confirmed as community based institution.

1. Have an operation School Management Committee
2. Following the 8-4-4 curriculum, where possible
3. Maintain basic hygiene and sanitary requirements
4. Be open to Government Audit Inspection
5. The report from the City Director of Education indicated that none of this had private registration.
6. Have an operation School Management Committee
7. Following the 8-4-4 curriculum, where possible
8. Maintain basic hygiene and sanitary requirements
9. Be open to Government Audit Inspection
10. The report from the City Director of Education indicated that none of this had private registration.

Non-formal schools that present candidates for examinations are registered by KNEC as examination centers through the Municipal Education Office. Registration documents for these schools were attached.

364.7 Nugatory Payment

As previously reported, a payment of Kshs. 193,000 was made on 21 July, 2008 to a supplier in Kuria East District for supply of construction materials for Kurutiyange Primary School before the items were delivered. There was no evidence that the materials were delivered at the school as at the date of this report, and indications are therefore that the expenditure of Kshs. 193,000 is nugatory

Submission by the Accounting Officer

It was true that the Head-teacher paid KShs.193,900.00 before delivery of materials and had failed to prove evidence that goods were delivered to the school.

I would like to state that the District Education Officer then confirmed delivery of Materials and delivery note for the said materials has been availed for audit verification.

365. Irregular Payments

As previously reported, Kimorori Primary School in Central Province made payments amounting to Kshs. 1,262,918 to a contractor between January and June 2008 for supply of building materials. An inspection conducted by the Ministry of Education in July, 2008 however revealed a loss of Kshs. 302,820 which had been occasioned by overpricing of goods and services and a recovery for the loss was ordered. Subsequently, an amount of Kshs. 275,573 was recovered, leaving a balance of Kshs. 27,247 outstanding as at 30th June 2014.

Submission by the Accounting Officer

It was true that the Ministry of Education in July, 2008 which revealed a loss of Kshs. 302,820 that had been occasioned by overpricing of goods and services and that a balance of Kshs. 27,247 was outstanding as at 30th June 2014.

The remaining balance was recovered accordingly and the accounting documents from the school have since been provided and are available for audit verification.

SUPPORT FOR TECHNICAL, INDUSTRIAL, VOCATIONAL AND ENTREPRENEURSHIP TRAINING PROJECT (ADF LOAN NO. 2100150018493)

366. Failure to Provide Budget Estimates

The statement of comparative budget and actual amounts for the year ended 30 June 2015 reflects under actual amounts Kshs.123,542,439, Kshs.9,104,447 and Kshs.128,500 under GoK counterpart funding, operating costs and training (GoK) respectively. However, the respective budgetary provisions had not been reflected contrary to Section 1.9.8 of International Public Sector Accounting Standards (IPSAS). No satisfactory explanation has been given for this anomaly.

Submission by the Accounting Officer

The statement of comparative budget and actual adjustments for the year ended 30 June,2015 reflects under actual amounts Kshs 123,542,439, Kshs.9,104,447 and Kshs 128,500 under Gok counterpart funding .Operations costs and training (Gok) respectively. This was Gok Expenditure that was the counterpart funding for the project that was incurred alongside Ministry's Development Expenditure.

Committee Observations and Findings

The Committee marked the matter as resolved

367. Ineligible expenditure – Kshs. 1,719,770

The Ministry contracted a firm to supply, deliver, install, commission and train on use of building and civil engineering training equipment to five (5) Technical Training Institutes across the country at a total cost of USD 3,168,755. Examination of payment vouchers revealed that an amount of Kshs.5,952,851 was paid to the contractor out of which Kshs.462,910.44 and Kshs.1,256,859.74 were in respect of demurrage and storage fees on these equipment on shipment to Mombasa port. These payments are not eligible under ADB conditions of the loan agreement. In the circumstances the payment constitutes an ineligible expenditure totaling Kshs.1,719,770. The project management was therefore in breach of the Loan Agreement.

Submission by the Accounting Officer

The Ministry contracted M/S Intertech Batinorm to supply training equipment to five (5) TVET Institutions vide Contracts: ICB/MOHEST/3/2012-2013,ICB/MOHEST/5/2012-2013, ICB/MOHEST/6/2012-2013, ICB/MOHEST/8/2012-2013, ICB/MOHEST/10/2012-2013 under the rehabilitation component of the GOK support for TIVET project on 3rd April, 2013.

During the 2013/14 budget speech by the Cabinet Secretary – National Treasury, a Railway Development Levy (RDL) of 1.5% was introduced on some imported goods and the training equipment which was to be supplied to our institutions under these contracts attracted this charge despite the fact that these contracts were signed before 1st July 2013 when the RDL became effective.

The Ministry wrote to the National Treasury, seeking exemption from this levy, through a letter MST/ADM/6/11/VOL.XIV/43, however they advised through the letter DFN/415/232/011 of 27th September, 2013 (attached that RDL cannot be exempted and is payable on imported goods before clearance at the point of entry.

In view of the foregoing the Ministry had to bear the burden of paying the RDL, storage and demurrage charges resulting from the equipment shipment being detained at the port of Mombasa as a result of the non-settlement of the RDL. It is worth of note that the demurrage and storage fees were paid from the Government counterpart fund and not from ADB funds; hence there was no breach of the loan agreement.

Committee Observation and Finding

The Committee marked the matter as resolved

368. Construction of Mechanical Engineering Workshop – Gusii Institute of Technology

The Ministry of Education awarded a firm a contract in July 2011 for the construction of mechanical engineering workshop in Gusii Institute of Technology at a contract sum of Kshs.11,790,032.10 for a duration of twelve (12) months. The works as per Bills of Quantities included putting up kerbs and improvement of the driveway around the workshop at a cost of Kshs.1,018,050 and installation of air-conditioning equipment in the server room and the computer lab at a cost of Kshs.452,000 all totaling Kshs.1,470,050. However, during a site visit to the Institute in April 2015, it was observed that the above works with costs totaling Kshs.1,470,050 had not been carried out. No explanation has been provided for the anomaly.

Submission by the Accounting Officer

It was true that the Ministry of Education, Science and Technology contracted Alfatech Contractors limited on 14th December 2011 to construct a Mechanical Engineering Workshop at Gusii Institute of Technology at an initial contract cost of Kshs. 87,895,031.06 which was later varied to Kshs. 100,552,697 (see the copy of Addendum) but not for a contract sum of Kshs. 11,790,032.10 as per the Auditor General's Report.

On 5th march, 2015 the Supervision Consultant prepared the final accounts with a final account sum of Kshs. 97,300,796.72; the Kshs. 3,251,900.28 balance was for works that the contractor failed to carry out including the air conditioning equipment and the putting up of the kerb and improvement of the driveway around the workshop both amounting to Kshs. 1,523,270.00

Committee Observations and Findings

The Committee marked the matter as resolved

369. Construction of Building and Civil Engineering Block Phase I– Butere Technical Training Institutes- Kshs. 150,229,572

Records availed for audit indicated that on 30 December 2013 a contract was awarded to a contractor for the construction of a Building and Civil Engineering Block Phase I at Butere Technical Training Institute at a contract sum of Kshs.150,229,572 for a duration of fifty two (52) weeks.

A visit to the project in September 2015 revealed that the project is not complete. However, examination of payment records revealed that as at 30 June 2015 the contractor had been paid Kshs.100,762,659.57 or approximately 67% of the contract sum out of which Kshs.90,383,967 was paid in 2014/2015 financial year but the project completion period has since lapsed. There was no evidence of any efforts being made to extend the contract period. No satisfactory explanation has been provided for the delay in project completion.

Submission by the Accounting Officer

It was true that the Ministry of Education, Science and Technology contracted Kihara Waweru Construction limited on 30th December 2013 to construct a Building and Civil Engineering Workshop at Butere Technical Training Institute in Kakamega County at an initial contract cost of Kshs 150,229,571.00. It was also true that the contract has gone beyond the contractual period. By June 2015, the Physical works progress was at about 90% against a payment of approximately 67%. On 30th September 2015, the supervising consultant – Quantsconsult advised that the contractor be given an Extension of Time (EOT), which the Ministry did on October 5, 2015.

Committee Observation and Finding

The Committee marked the matter as resolved

370. Electronic and Engineering Block Phase 1 – Tseikuru Technical Training Institute

370.1 Construction of Electrical and Electronics Engineering Block Phase 1 – Tseikuru Technical Training Institute- Kshs. 88,149,485.39

Records availed for audit review indicated that a contract was awarded a contractor to construct an Electrical and Electronics Engineering Block Phase I at Tseikuru Technical Training Institute in March 2012 at a contract sum of Kshs.88,149,485.39 for a duration of fifty two (52) weeks. A visit to the project in September 2015 indicated that the project is incomplete and the contractor's performance bond from Equity Bank of Kshs.10,493,986.40 had expired on 30 June 2013. No explanations were given for the delay in completion of works at the Institute or failure to renew the performance bond.

Submission by the Accounting Officer

It was true that the Ministry of Education, Science and Technology contracted Marson Integrated Ltd in March 2012 to construct an Electrical and Electronics Engineering Workshop at Tseikuru Technical Training Institute in Kitui County at an initial contract cost of Kshs. 88,149,485.39.

It was true that the contractor was still at the site in September, 2015 but he had completed the works and a certificate of completion issued on 31st December 2014; the works the contractor was attending to by the time officers from the Auditor General office visited the site were correction of defects, which is contractual.

Committee Observation and Finding

The Committee marked the matter as resolved

370.2 Supply, Delivery and Installation of Electrical and Electronics Engineering Equipment – Tseikuru TTI

On 30 December 2013, the Project Management awarded a contract for the supply of workshop equipment to a supplier at a contract sum of Kshs.45,713,849.21. Although, the equipment was delivered to the Institute on 2 January 2015, as at the time of this audit the same had not been installed at the institute's workshops. The equipment was left with the contractor without a formal agreement and without arrangements on the equipment security. In addition, the Electrical Workshops were not secure as the windows had no grills.

Further, the contract involved training on installation, maintenance and use of the equipment for ten (10) members of the teaching staff. It is not clear who was trained as the Institute did not have teaching staff as at the time of the visit.

In the circumstances, the stakeholders may not have gotten value for their resources as the equipment has not been put to its intended use.

371. Godoma Technical Training Institute

371.1 Construction of Electrical and Electronics Engineering Block Phase I

On 5 March 2012, the Project Management awarded a contract for the construction of an Electrical and Electronics Engineering Block Phase I at Godoma Technical Training Institute at a contract sum of Kshs.91,129,777.50 for a duration of twelve (12) months.

Information made available indicates that as at September 2015, the contractor had been paid Kshs.99,022,525.16 out of which Kshs.44,906,991 was paid during 2014/2015 financial year, through thirteen (13) interim certificates resulting in a variance of Kshs.7,892,747.66 over and above the contract sum. Further, included in the works was delivery and installation of an electrical submersible water pump worth Kshs.205,920. The pump had not been delivered and installed as at the time of audit inspection in September 2015. In addition, electrical sockets had been installed on the floor making it risky during the time of cleaning when using water. No explanation has been provided by the management for anomalies observed.

Submission by the Accounting Officer

It was true that the Ministry of Education, Science and Technology contracted Epco Builders limited on 5th March 2012 to construct an Electrical and Electronics Engineering Workshop at Godoma Technical Training Institute at an initial contract cost of Kes 91,129,777.50which was later varied to Kes 97,594,387.96 (see the copy of Addendum). According to the payment schedule (see attached), to date, the Ministry has paid Epco Builders a sum of Kshs. 97,594,387.95, which is cents 1 less than the contractual amount and not Kshs. 99,022,525.16 as presented in the Auditor General’s report. In regard to the submersible water pump worth Kshs. 205,920.00, the contractor was in the process of replacing the pump; the contractor, has now duly replaced the pump. The placement of sockets on the floor was as per the electrical design drawings, which had been approved by the Public works department.

Committee Observation and Finding

The Committee marked the matter as resolved

371.2 Supply, Delivery and Installation of Electrical and Electronics Engineering Equipment

A contract for the supply of workshop equipment at Godorna Technical Institute had been awarded to a contractor at a contract sum of Kshs.45,713,849.21. The equipment was however yet to be installed as the institute’s workshops were yet to be handed over by the contractor. In the circumstances, it is not clear and the management has not explained if and when the equipment may be put to use and if the stakeholders will get value for their resources.

Submission by the Accounting Officer

It was true that the Ministry of Education, Science and Technology contracted Redline Ltd on 30th December 2013 to Supply, Delivery and Installation of Electrical and Electronics Engineering Equipment – Godoma TTI at a contract sum of Kshs. 45,713,849.21. The Electrical and Electronics Training equipment are portable modules, which are removed from storage as and when required for experiment and not equipment for installation. At the time the officers from the Auditor General office visited the Institutions, pioneering students were yet to be enrolled; this was the reason why the equipment were in storage.

Committee Observation and Finding

The Committee marked the matter as resolved

372. Construction of Mechanical Engineering Workshop-Nyeri Technical Training Institute

On 19 October 2011, the Project management awarded a contract for construction of a Mechanical Engineering Workshop at a cost of Kshs.80,088,778.74 for a duration of twelve (12) months. As at September 2015, the Ministry had paid Kshs.52,685,482.37 out of which Kshs.2,605,271 was paid during the year under review. Physical visit to the Institute in September 2015 revealed that the project was still incomplete and no project status report to show the percentage of completion was availed for audit review. No proper explanations were provided on the cause of delay in completion of the project, despite the fact that the Ministry had informed the contractor of its intention to terminate the contract due to delay and non-performance. In the circumstances, it has not been possible to confirm when the stakeholders will start getting the value for their resources as the workshops have not been put to use.

Submission by the Accounting Officer

It was true that the Ministry of Education, Science and Technology contracted Laton Engineering Ltd on 19th October, 2011 to construct a Mechanical Engineering Workshop at Nyeri Technical Training Institute in Nyeri County at an initial contract cost of Kshs. 80,088,778.74.

It was true that the contractor was still at the site but he has completed the works as per the Bill of Quantities; the works the contractor was attending to by the time officers from the Auditor General office visited the site were correction of defects, which is contractual.

Committee Observation and Finding

The Committee marked the matter as resolved

373. Unresolved Prior Year Matters

373.1 Non Delivery of Equipment

As reported in 2013/2014, information available indicates that on 30 December 2013, the Ministry signed contracts with various firms for the supply, delivery, installation, commissioning and training on use and maintenance of various equipment to eight (8) new Technical Institutes at a total cost of Kshs.363,135,374. However, a review of procurement documents availed for audit indicated that the Ministry had not paid the contractors and as result the equipment had not been supplied to the intended Institutes as at the date of this report, contrary to Section 6 of the Contract Agreement which required goods to be delivered at the project site not later than eight (8) weeks after signing the contract and completion date not later than twelve (12) weeks after contract signing. No satisfactory explanations have so far been provided by the Ministry for not paying the contractors. The non-performance of the contract for delivery of the equipment impacts negatively on the cardinal objective of the Project, to improve access, quality and relevance of skills development opportunities for the youth in Kenya.

Submission by the Accounting Officer

As earlier explained in the audits of past years, the KNAO is referring to, the payment for goods is executed as below:

Payment of foreign currency portion shall be made in the currency of bid the following manner:

Advance Payment: Twenty (20 %) percent of the Contract Price shall be paid within Forty-five (45) days of signing the Contract, and upon submission of a claim and a bank guarantee for the equivalent amount valid until the goods are delivered and in the form provided in the bidding document or another form of acceptable to the purchaser.

On Shipment: Eighty (60 %) percent of the Contract Price shall be paid upon submission of the following documents:

i. Supplier invoice showing goods description, quality, unit price and total amount-Original and a copy
ii. Bill of Lading –Original and a copy
iii. Packing list identifying content of each package
iv. Insurance Certificate
v. Manufacturers' or Suppliers warranty Certificate
vi. Certificate of Origin
vii. Inspection Certificate by the Government Agent

Twenty (20%) On Acceptance of receipt of the goods upon submission of claim supported by the acceptance report by the Purchaser.

The suppliers referred to, had not fulfilled the above explained procedure to warrant the payment; however, most of the goods have now been delivered and accepted by the Ministry and payments for goods delivered has been executed.Acceptance reports for the equipment for six of the eight new TTIs, which received equipment for the newly established workshops were provided.

Committee Observation and Finding

The Committee marked the matter as resolved

372.3Delays in Completion of Civil Works

As was previously reported, the Ministry in October 2011 contracted several contractors for the construction of workshops in eleven (11) Technical Institutes at a total contract sum of Kshs.838,482,812.78. In March 2012, the Ministry further undertook to construct additional eight (8) workshops in eight (8) new Technical Institutes, and engaged contractors at a total contract sum of Kshs.763,442,178.49. In total the Ministry had committed to construct 19 workshops at a total cost of Kshs.1,601,924,991.27. According to contracts signed between the Ministry and various Contractors, the works were to commence immediately and be completed within fifty-two (52) weeks in October, 2012 and March 2013.

As at 30 June 2015, the Ministry had paid a total of Kshs.1,122,712,476.86 or approximately 70.085% of the total contract sum of Kshs.1,601,924,991.27. However, a review of the project at the time of this audit revealed that seven (7) out of the nineteen (19) contracts with a total contract sum of Kshs.546,071,441 had not been completed despite the contractors having been paid Kshs.323,183,243. The Ministry did not provide reasons for the delay in project completion and has not explained if and when the Project will be completed.

Submission by the Accounting Officer

The seven contracts delay was caused mainly by the demise of the lead Design and Supervision Consultant – Joel E. D. Nyaseme on 4th February 2012; this brought about lack of proper technical supervision up to 11th June 2013, when the Ministry Procured the services of Quantsconsult limited to carry on with the supervision of construction works in the following sites: for Aldai, Bureti, Siala, Tseikuru, Mukurweini, Wajir, Godoma and Butere TTIs. In addition, the rate of construction at Wajir TTI has been affected negatively by the insecurity in the area. The other construction site that also had issues was Gusii IT where the original site for the workshop became the subject of a court case between Gusii IT and the Coffee research Foundation; this forced the Institute to change the site to the only available open land which had a very steep gradient as opposed to the earlier site which was fairly flat. This harsh terrain brought delays as extra works had to be done carrying out cuts and fills and building a retaining wall to protect the workshop from a possible landslide.

These challenges notwithstanding, the Ministry has managed to ensure that the construction works are carried to completion; the status of the construction works in the nineteen Institutions was availed for verification.

Committee Observation and Finding

The Committee marked the matter as resolved

373.3Non-Renewal of Bank Guarantees

As previously reported, a review of contract documents for the construction of workshops for selected technical institutes revealed that eighteen (18) contractors signed performance bonds at 10% of the contract sum in compliance with the contract agreement. The bonds executed were between Kshs.1,000,000 and Kshs.11,585,380.50. The bonds were to run for a period of one year and the contractors were to renew them upon expiry. A review of the project status in October, 2015 revealed that six (6) bonds totalling Kshs.50,119,297.30 had expired and had not been renewed, hence exposing the Ministry to risk of financial loss in case of non performance of this magnitude. No explanation was provided for this anomaly.

Submission by the Accounting Officer

In regard to performance bonds, all the contractors renew performance bond on a case by case basis. At the time of audit six bonds had not been renewed; however, the Bonds were duly renewed thereafter. At the moment, the only contractor who has not reached practical completion and therefore performance Bond is still required is Burahitech for Wajir TTI; the contractor's performance Bond was up-to-date and availed for verification.

Committee Observation and Finding

The Committee marked the matter as resolved

373.4 Expired Contract Periods

As previously reported, the Project status report as at 30 November 2013 indicated that contract periods for 18 contracts expired on various dates within 2011/2012 financial year. However, although the Ministry did not give extensions of the contracts, a review of the status in September 2015, revealed that seven (7) contractors continued with the works without valid contracts in violation of Section VII Clause 2.2 of the contract agreements that provide for renewal of contract period upon expiry. In the circumstances, the Contractors were in breach of the terms of the contracts.

Submission by the Accounting Officer

The Ministry acknowledges that adequate documentation was not availed to the Audit team with respect to renewed contracts; the documentation has been attached to this report and in future audits, the Ministry shall ensure that adequate documentation is availed to the audit team. All the contractors, who have not achieved practical completion, have renewed the Performance Bonds (See annex attached). The employer ensured currency of the contracts by requiring the contractors to renew their performance bonds when they fell due.

Committee Observation and Finding

The Committee marked the matter as resolved

373.5 Advance Payment for Equipment and Works

As previously reported, the statement of receipts and payments for the year 2011/2012 reflected payment of Kshs.299,606,679.05 against goods and works. The figure included Kshs.34,532,180.70 in respect of equipment which was to be supplied and installed in three (3) Technical Institutions, and works which were to be done in eight (8) Technical Institutions within the Country. The amount of Kshs.34,532,180.70 also included advance payments of Kshs.29,519,983.90 which comprised of Kshs.2,338,296.90 paid to three (3) suppliers of equipment before delivery of the items, while the balance of Kshs.27,181,687 was paid in advance to three (3) contractors before the works had commenced.

However, no proper bank guarantees for these payments were availed for audit review. It was therefore not possible to ascertain how the Ministry would be indemnified in case of breach of contract. As at 30 June 2015, the Ministry had not provided information on the status of the issue as raised in the previous year's report.

Submission by the Accounting Officer

It is true that some firms were given advance payment before provision of goods and services. This was done in accordance with the contractual agreement and after the firms presented advance payment guarantees whose copies were attached for Committees verification.

In addition, the goods and works for which advance payments were paid have been completed as per the attached construction works completion certificates and training equipment acceptance forms.

Committee Observations and Findings

The Committee marked the matter as resolved

25.0. MINISTRY OF TRANSPORT AND INFRASTRUCTURE

25.1. STATE DEPARTMENT OF INFRASTRUCTURE

FINANCIAL STATEMENTS FOR VOTE 143

Mr. Julius K. Korir, the Accounting Officer for Vote 143, State Department of Infrastructure accompanied by Eng. S.K Kogi; Chief Engineer; Mr. Philip Wachira, Chief Finance Office, Mr. Emmanuel Oyugi, Ag. Head of Accounting Unit; Mr. R. N Muleli, Accountant, Eng.S. Kirioti, Ag Director General KURA; Eng. Zulea, Chief Engineer (M); Eng. James Kung'u, Chief Engineer (Rocecs); Eng. Luka Kimeli, Ag Director-General (KeRRA); Eng Philemon K. Kandie, Deputy Director KeNHA; Sopphie W. Mwangashi, Assistant Accountant Genera; and Ms. Isebella A. Odolo, Personal Assistant appeared before the Committee on 26th July 2018, 14th August 2018, 2nd October 2018 to adduce evidence on the audited Financial Statements of Vote 143 State Department of Infrastructure for the Financial Year (FY) 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Adverse Opinion

374. Inaccuracies in the Financial Statements

The statement of financial position as at 30 June 2015 had the following inaccuracies:

374.1 Accounts Receivables – Negative Kshs. 41,992,571,850.20

Included in the receivables balance of negative Kshs. 41,992,571,850.20 is an amount of negative Kshs. 41,994,231,622.05 as summarized below whose details or supporting documents were not availed for audit:

Suspense & Clearance	12,326,945.80
Differences	-42,006,558,567.85
Total	**-41,994,231,622.05**

It has not been possible to confirm the accuracy and correctness of account receivables of negative Kshs. 41,992,571,850.20 as at 30th June 2015 and why receivables have a negative balance.

Submission by Accounting Officer

The Accounting Officer confirmed that it was true that receivables balance had a negative balance of Kshs. 41,992,571,850 as at 30th June, 2015.The analysis of the Suspense and Clearance balance (District Suspense) of Kshs. 12,326,945.80 is supported by the Trial balance as at 30th June, 2015.

The difference of Kshs. 41,992,571,850 is a balancing figure on the Statement of Financial Position accruing from usage of IFMIS generated balances. The Department is in touch with the IFMIS Section of the National Treasury with the objective of reconciling the outstanding matters as shown in internal memo from former Head of Accounting Unit shown in Annex I (a). A meeting convened by The National Treasury was also held on 21st February, 2018 to resolve IFMIS related challenges experienced by Departments as shown in Annex I (b). All funds receipt documents pertaining to the year under reference has been availed to the Auditors. Further to the foregoing, all receivables have been accounted for using the manual system. However, clearance of the discrepancy through the system is a continuous process and it is still ongoing.

Committee Observations and Findings

1. **The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies including reconciliations exposing public funds to abuse; and**
2. **There are persistent systemic challenges with IFMIS record keeping where for instance, in the financial year, the State Department's financial statements had difference of Kshs. 41,992,571,850 as a balancing figure on the Statement of Financial Position accruing from usage of IFMIS generated balances. These challenges have been continuously brought to the attention of Cabinet Secretary for the National Treasury by the Accounting Officers.**

Committee Recommendation

The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution and seal loophole for siphoning public money.

374.2 Accounts Payable and Deposits

The statement of financial position discloses account payables balance of Kshs. 33,212,868,865 made up of deposits, other liabilities and system required liabilities of Kshs. 264,258,608.35, negative Kshs. 30,827,757.10 and Kshs. 32,979,438,013.75 respectively. The accounting officer has explained that the deposit amount of Kshs. 264,258,608.35 represents the bank balance on the deposit account. However, the deposit account cash book balance as at 30 June 2015 was Kshs. 265,118,800.30 resulting in an unexplained difference of Kshs. 860,191.95.

Further, the negative Kshs. 30,827,757.10 and Kshs. 32,979,438,013.75 for other liabilities and system required liabilities respectively had no supporting documents. In addition, the Ministry has not disclosed pending bills as at 30 June 2015 for recurrent and development vote amounting to Kshs. 57,651,140.05 and Kshs. 30,265,963.30 for the two accounts respectively.

In the circumstances, it has not been possible to confirm the accuracy and correctness of the accounts payable balance of Kshs. 33,212,868,865.

Submission by Accounting Officer

The Accounting Officer confirmed that they were in agreement with the Auditor's observation and responded as follows:

i. That the Deposits balance of Kshs. 264,258,608.00 disclosed in the Statement of Financial Position was an error which will be amended during the revision of the Financial Statements to tally with the adjusted cash book balance. This was an error in the Deposit Cash Book occasioned by double posting of a payment. The balance has since been amended to Kshs. 266,632,602.30 as per Cash Book extract under.

ii. Other Liabilities and System Required Liabilities respectively are IFMIS generated. As indicated above, we are in touch with IFMIS Department of the National Treasury to clear the outstanding balances.

iii. It is also true the Ministry inadvertently did not disclose the pending bills as at 30th June 2015. The Pending bills schedule is attached as shown in and shall be included in the revised Financial Statement once consent is issued by The National Treasury.

Committee Observations and Findings

1. **The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies including reconciliations exposing public funds to abuse; and**

2. **The Accounting Officer prepared the financial statements with errors and inadvertently failed not disclose the pending bills as at 30th June 2015 contrary to the provisions of Section 68 of the Public Finance Management Act 2012.**

Committee Recommendations

1. **The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution and seal loophole for siphoning public money; and**

2. **Eng. John K Mosonik, the erstwhile accounting officer of the entity should be reprimanded for failure to ensure that the entity kept complete financial and accounting records that are supported by necessary documents and for inadvertently**

failing to disclose the pending bills as at 30th June 2015 contrary to the provisions of Section 68 of the PFM Act 2012.

374.3 Cash and Cash Equivalents

The statement also reflects total cash and cash equivalents of Kshs. 75,237,260,707.15 as at 30 June 2015 while all supporting records and documents indicate total cash and cash equivalents of Kshs. 389,670,252.20. There is a variance of Kshs. 74,847,590,454.95. The statement of cash flows on the other hand discloses Kshs. 8,747,882,993.25 as balance of cash and cash equivalents as at 30 June 2015. The three sets of figures need to be reconciled.

Submission by Accounting Officer

The Accounting Officer in confirmed it was true the Financial Statements as at 30th June, 2015 reflected a variance of Kshs. 74,847,590,454.95 in the Cash and Cash Equivalents and the Statement of Cash Flows. The variance of Kshs. 74,847,590,455 and Statement of Cash Flows variance of Kshs.8, 747,882,993.25 was as a result of system generated balance.

The Department is in process of revising its Financial Statements, after which the correct balances will be reflected.

Committee Observations and Findings

The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies including reconciliations exposing public funds to abuse.

Committee Recommendations

The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution and seal loophole for siphoning public money; and

374.4 Bank Balances

Included in total cash and cash equivalents balance of Kshs. 75,237,260,707.15 is a bank balance of Kshs. 267,935,813.90 composed of Kshs. 266,632,602.30 and Kshs. 1,303,211.60 for Deposits and Kenya Transport Sector Support Project (KTSSP) bank balance respectively. However, a bank balance of Kshs. 389,670,252.20 was confirmed from the cash books and the supporting bank reconciliations. The bank balance of Kshs. 267,935,813.90 excludes Kshs. 121,139,157.70 and Kshs. 2,109,082.60 in respect of recurrent and development bank balance respectively. In addition, deposit account cash book indicates a balance of Kshs. 265,118,800.30

resulting in a difference of Kshs. 1,513,802. The bank balance is therefore understated by Kshs. 123,248,240.30.

Submission by Accounting Officer

The Accounting Officer confirmed that it was true that the bank balance of Kshs. 267,935,814 excluded Kshs. 121,139,158 and Kshs. 2,109,083 in respect of Recurrent and Development Bank Account balances respectively and that Deposit Account showed a difference of Kshs. 1,513,802.

The Accounting Officer stated the following:

(i) As indicated above, the correct balance of Deposits is Ksh. 266,632,602.30 as shown earlier in.

(ii) The earlier omitted balances for Recurrent and Development bank account for Kshs. 121,139,157.70 and Ksh. 2,109,082.60 respectively will be included in the Revised Financial Statements.

Committee Observation and Finding

The financial statement of the entity as was prepared by the Accounting Officer and submitted to the Auditor General had bank balance of Kshs. 267,935,814 which excluded Kshs. 121,139,158 and Kshs. 2,109,083 in respect of Recurrent and Development Bank Account balances respectively and that Deposit Account showed a difference of Kshs. 1,513,802.

Committee Recommendation

Eng. John K Mosonik, the erstwhile accounting officer of the entity should be reprimanded for failure to ensure that the entity kept complete financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012.

374.5 Cash Balance

The statement of financial position further reflects a cash balance of Kshs. 74,969,324,893.25 which however had no supporting documents. In addition, the board of survey confirmed that there was no cash balance as at 30 June 2015. It has not been possible to confirm the accuracy and completeness of cash and cash equivalents' balance of Kshs. 75,237,260,707.15.

Submission by Accounting Officer

The Accounting Officer confirmed the Cash Balance of Kshs. 74,969,324,893.25 was not analyzed and that the board of survey confirmed there was no cash balance as at 30th June, 2015.

The figure of Kshs. 74,969,324,893.25 was IFMIS system generated. Following uploading of bank statements to IFMIS, the auto generated Cash Balance has reduced to Kshs. 56,515,365,436 as shown in Annex III. The uploading process is still ongoing and it is expected that the IFMIS balance will agree with the Cash on Hand Balance.

Committee Observation and Finding

The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies such as miss-posting in the IFMIS General Ledger;

Committee Recommendation

The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution and seal loophole for siphoning public money;

374.6 Net Increase in Cash and Cash Equivalents

The statement of cash flows for the year ended 30 June 2015 indicates net increase in cash and cash equivalents of Kshs. 8,747,882,993.25. However, addition of cash flows from all activities reveals that there was actually a net decrease in cash and cash equivalents of the same amount.

Submission by Accounting Officer

The Accounting Officer confirmed that it was true that there was actually a net decrease in Cash and Cash Equivalent of Kshs. 8,747,882,993. The description in the Financial Statement will be amended accordingly.

Committee Observation and Finding

The statement of cash flow of the entity as at 30th June 2015 as was prepared by the Accounting Officer and submitted to the Auditor General indicated net increase in cash and cash equivalents of Kshs. 8,747,882,993.25. However, addition of cash flows from all activities reveals that there was actually a net decrease in cash and cash equivalents of the same amount. This has not been amended accordingly.

Committee Recommendation

1. **Eng. John K Mosonik, the erstwhile accounting officer of the entity should be reprimanded for failure to ensure that the entity kept correct financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012; and**
2. **The Accounting Officer should ensure that error is corrected and the financial statements re-submitted to the Auditor General for audit review.**

374.7 Transfers to Other Government Agencies

The statement of receipts and payments for the year ended 30 June 2015 discloses an amount of Kshs. 84,478,361,621.50 on account of transfers to other government agencies comprising Kshs. 23,409,273,292.15 and Kshs. 61,069,088,329.35 relating to Recurrent vote and Development vote respectively.

However, a review of the supporting documents indicated a balance of Kshs. 61,614,881,790.70 as follows: -

Journal vouchers (Direct payment)	29,818,825,898.60
Payment vouchers-	31,796,055,892.10
Total	**61,614,881,790.70**

The variance of Kshs. 545,793,461.35 has not been reconciled.

Submission by Accounting Officer

The Accounting Officer confirmed that it is true that the Statement of Receipts and Payments for the year ended 30th June, 2015 showed a variation of Kshs. 545,793,461 between the Financial Statements and that of the supporting documents.The variation has been noted and that the Financial Statements will be amended to Kshs. 61,614,881,740 as per supporting documents.

Committee Observation and Finding

The statement of receipts and payments of the entity as at 30th June 2015 as was prepared by the Accounting Officer and submitted to the Auditor General indicated amount of Kshs. 84,478,361,621.50 on account of transfers to other government agencies comprising Kshs. 23,409,273,292.15 and Kshs. 61,069,088,329.35 relating to Recurrent vote and Development vote respectively. However, a review of the supporting documents indicated a balance of Kshs. 61,614,881,790.70. This has not been amended accordingly.

Committee Recommendations

1. **Eng. John K Mosonik, the erstwhile accounting officer of the entity should be reprimanded for failure to ensure that the entity kept correct financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012; and**
2. **The Accounting Officer should ensure that error is corrected and the financial statements re-submitted to the Auditor General for audit review.**

374.8 Transfers from Other Government Entities

The statement of receipts and payments discloses an amount of Kshs. 22,446,501,146 as having been received from Kenya Roads Board. However, a review of records from Kenya Roads Board indicated that an amount of Kshs. 25,036,325,644 was remitted to the Ministry for onward disbursement to Roads Authorities, resulting in an unaccounted for transfers of Kshs. 2,589,824,498.

Submission by Accounting Officer

The Accounting Officer in stated that the Ministry received an amount of Kshs. 23,460,744,032 from Kenya Roads Board. However, the approved budget for the year was Kshs. 22,446,501,146. Due to budgetary limitation, the Ministry returned Kshs. 1,014,242,886.00 to Kenya Roads Board for re-voting in the subsequent year on 3rd July, 2015 as shown on Annex IV (a).

Due to timing differences, Kshs. 884,208,451 in respect of funds released by Kenya Roads Board for Financial Year 2013-2014 was received by the Ministry in 2014-2015. Further Kshs. 2,399,594,965 from Kenya Roads Board was received after closure of FY 2014/15 and thereby accounted for in the subsequent financial year. The difference between the two sets of records is mainly due to the different accounting methods of Cash Accounting for the Central Government and Accrual Accounting for the parastatals.

Committee Observations and Findings

1. **The State Department received an amount of Kshs. 23,460,744,032 from Kenya Roads Board. However, the approved budget for the year was Kshs. 22,446,501,146 resulting to underutilization of Kshs. 1,014,242,886.00 which was reported Kenya Roads Board for re-voting in the subsequent year; and**
2. **Due to timing differences Kshs. 884,208,451 in respect of funds released by Kenya Roads Board for FY 2013-2014 was received by the State Department in FY 2014/2015. Further Kshs. 2,399,594,965 from Kenya Roads Board was received after closure of FY 2014/15 and thereby accounted for in the subsequent financial year. These delays have been attributed to use of different accounting system by Kenya Roads Board and the State Department.**

Committee Recommendations

The Cabinet Secretary for the National Treasury should within three (3) months after tabling of this report ensure that the Public Sector Accounting Standard Board (PSASB) in line with its functions as stipulated in Section 194 of the PFM Act 2012 embark on developing a framework & standards for the adoption of the IPSAS accrual basis of accounting and reporting by the national government MDAs as opposed to the IPSAS cash basis of accounting and reporting which has been in force since 1st July 2014 and has not addressed pertinent matters such as timing differences in accounting and reporting for revenue;

374.9 Appropriations-In-Aid Collected from Regional Offices

During the year under review, it was observed that the regional offices of Materials Department collected AIA amounting to Kshs. 14,568,050 which was not disclosed in the statement of receipts and payments for the year. The whereabouts of this money is not known.

Submission by Accounting Officer

The Accounting Officer stated it was true that during the year under review Regional Officers of Materials Department collected AIA amounting to Kshs. 14,568,050 and only Kshs. 5,641,950.00 was reflected in the Headquarter books leaving Kshs. 8,926,100.00 still in the field District Accountants Bank accounts. He stated that Collections of AIA in the Region Offices was being submitted to District Treasury. The collected amounts were accounted for through the District Accounting System. The details and evidence of remittance of the collections at the District Treasuries have been availed to the Auditors.

All the AIA collected was accounted for under various accounts as analyzed in the detailed schedule attached amounting to Ksh. 25,212,375.15as shown in Annexes V (a) and (b).

Committee Observations and Findings

The Accounting Officer did not at the time of audit disclose A-I-A collected from field offices amounting to Kshs. 14,568,050 and did not provide to the Auditors, the relevant verifiable documentation to confirm the actual A-I-A collected;

374.10 Proceeds from Foreign Borrowing

The statement of receipts and payments reflects Kshs. 24,746,958,749.65 as proceeds from foreign borrowing, which differs with total of journal entries of Kshs. 27,541,044,073.02 resulting in an understatement of Kshs. 2,794,085,323.40.

Submission by Accounting Officer

The Accounting Officer stated it is true the Statement of Receipts and Payments differed from the total of journals by Kshs. 2,794,085,323. However, the figure for Kshs. 27,541,044,073 included journals supporting proceeds from foreign borrowing (loans) and foreign grants. The correct schedule to support the figure of Kshs. 24,746,958,749.65 is attached (Annex VI).

Committee Observations and Findings

The statement of receipts and payments of the entity as at 30th June 2015 as was prepared by the Accounting Officer and submitted to the Auditor General reflected Kshs. 24,746,958,749.65 as proceeds from foreign borrowing, which differs with total of journal entries of Kshs. 27,541,044,073.02 resulting in an understatement of Kshs. 2,794,085,323.40.

Committee Recommendations

Eng. John K Mosonik, the erstwhile accounting officer of the entity should be reprimanded for failure to ensure that the entity kept correct financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012;

374.11 Proceeds from Foreign Grants

The statement of receipts and payments discloses an amount of Kshs. 5,030,114,823.45 as receipts from foreign grant. However, the supporting schedule and the ledger indicate an amount of Kshs. 3,861,475,171 resulting in an unexplained difference of Kshs. 1,168,639,652.45.

Submission by Accounting Officer

The Accounting Officer stated that it is true the support schedule reflected an amount of Kshs. 3,861,475,171 as receipts from Foreign Grant. The actual amount was Kshs. 5,071,638,899.75 indicated in the Revised Financial Statements for Financial Year 2014/2015.

Committee Observations and Findings

The statement of receipts and payments of the entity as at 30th June 2015 as was prepared by the Accounting Officer and submitted to the Auditor General disclosed an amount of Kshs. 5,030,114,823.45 as receipts from foreign grant. However, the supporting schedule and the ledger indicate an amount of Kshs. 3,861,475,171 resulting in an unexplained difference of Kshs. 1,168,639,652.45;

Committee Recommendations

Eng. John K Mosonik, the erstwhile accounting officer of the entity should be reprimanded for failure to ensure that the entity kept correct financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012;

375. Operations of Deposits Account

The financial statements disclose Kshs. 266,632,602.30 as the balance on the deposit account as at 30 June 2015. A review of the operations of the deposit account during the year revealed the following anomalies:

375.1 Retention Refunds – Kshs. 881,398,162.91

The Department made retention refunds totaling Kshs. 881,398,162.91 to contractors as follows:

Financial year	Amount
2013-14	688,775,675.26
2014-15	192,622,487.65
	881,398,162.91

A review of documents in support of the figure of Kshs. 881,398,162.91 however indicated that Kshs. 292,060,779.51 and Kshs. 100,372,341.65 for 2013/14 and 2014/15 respectively totaling 392,433,121.16 were paid without original receipts while refunds totaling Kshs. 55,450,449.02 in 2014/15 were paid without proof of completion of works in the respective contracts.

In the circumstances, it has not been possible to confirm whether above refunds totaling Kshs. 447,883,570.18 were genuine and valid.

Submission by Accounting Officer

The Accounting Officer in stated it was true that payments were made without receipts while refunds paid without proof of completion of works.Payments towards refund of Retention Funds during 2013-14 and 2014-15 related to funds received during prior financial years. The Ministry had in the past constituted a Task Force to reconcile Contractors Retention Funds through which discrepancies were noted. The report was forwarded to Ethics and Anti-Corruption Commission (EACC) vide letter RE: MOR/A.96.01/70 dated 19.02.2013. The EACC acknowledged the receipt of the report. Most of the documentation in support of retention funds were released for investigation purposes.

Committee Observations and Findings

The Accounting Officer for the State Department made payments of Kshs. 292,060,779.51 and Kshs. 100,372,341.65 for FY2013/14 and FY2014/15 respectively totaling Ksh. 392,433,121.16 were paid without original receipts while refunds totaling Kshs. 55,450,449.02 in FY 2014/15 were paid without proof of completion of works contrary to the law;

Committee Recommendations

1. **Eng. John K Mosonik, the erstwhile accounting officer of the entity should be held liable for making payments of Ksh. 292,060,779.51 and Kshs. 100,372,341.65 for FY2013/14 and FY2014/15 respectively totaling Ksh. 392,433,121.16 without original receipts. He should further be held liable for making refunds totaling Kshs. 55,450,449.02 in FY 2014/15 to contractors without proof of completion of works contrary to the PFM Act 2012;**
2. **The EACC should expedite the completion of the investigation of irregularities into retention Funds for FY2013/14 and FY2014/2015 with a view to prosecute those involved in the misuse of public funds if any.**

375.2 Unresolved Issues for Deposits Account for 2012/13 and Earlier Years

As reported in the previous year, the statement of assets and liabilities for deposits for the former Ministry of Roads reflected the following debit and credit balances relating to 2012/2013 and earlier years which besides being un-cleared for a long time remained unanalyzed and unsupported as at 30 June 2015.

Account Debits	Amount (Kshs.)
Recurrent AIA	(184,700.00)
General Suspense	255,702,281.45
District Deposit Bank	251,227.00
Provincial Suspense Account	22,250,045.75
R/D Cheques	38,487.75
Fuel Levy	30,004,897.50
Credits Stale Cheques	719,064.00
Revenue Deposit	52,409,214.20
Mechanical Branch Suspense	687,268,445.25

Submission by Accounting Officer

The Accounting Officer stated it was true as reported in the previous year, the Statement of Assets and Liabilities under Deposits for the former Ministry of Roads reflected the Debit and Credit Balances relating to 2012/2013 and earlier years which besides being un-cleared for a long time had remained unanalyzed and unsupported as at 30th June, 2016.

The Kenya Ethics and Anti- Corruption Commission (EACC) is investigating irregularities in respect of Retention Funds for Financial Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010. Accounting documents in support of Retention Funds in respect of the above financial years were released to EACC that are inhibiting reconciliation of the outstanding debits and credits.

Committee Observations and Findings

The Accounting Officer for the State Department submitted Statement of Assets and Liabilities under Deposits for the former Ministry of Roads that still reflected the Debit and Credit Balances relating to FY 2012/2013 and earlier years which besides being un-cleared for a long time had remained unanalyzed and unsupported as at 30th June, 2016.

Committee Recommendations

1. **Eng. John K Mosonik, the then accounting officer of the entity should be held liable for submitting to the Auditor General Statement of Assets and Liabilities under Deposits for the former Ministry of Roads that were still reflecting the Debit and Credit Balances relating to FY 2012/2013 and earlier years which besides being un-cleared for a long time had remained unanalyzed and unsupported as at 30th June, 2016; and**
2. **The EACC should expedite the completion of the investigation of irregularities into retention Funds for Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 with a view to prosecute those involved in the misuse of public funds if any.**

375.3 The statement as at 30 June 2013 reflected a balance of Kshs. 1,192,886,514.85 on 10% retention money composed of a balance of Kshs. 1,438,823,266.35, relating to 2011/2012 and earlier years and movement during the year of negative Kshs. 245,936,751.50. However out of the Kshs. 1,438,823,266.35 reported in 2011/2012 an amount of Kshs. 1,431,064,185.67 relating to 2009/2010 could not be verified from the retention money register since serial numbers of the receipts accounting for the retention moneys were not indicated. Further as reported in 2011/12 an amount of Kshs. 11,822,080.15 released to a contractor was supported by receipts not issued for use in the Ministry's cash documents. The position remains unresolved to date.

Submission by Accounting Officer

The Accounting Officer stated it was true an amount of Kshs. 1,431,064,186 relating to 2009/2010 could not be verified from the Retention Money Register since serial numbers of the receipts accounting for the retention moneys were not indicated. Further as reported in 2011/12, an amount of Kshs. 11,822,080 released to a contractor was supported by receipts not issued for use in the Ministry's cash documents.As explained in my response of paragraph 277.1, accounting documents in support of Retention Funds in respect of the above financial years were released to EACC for investigations as shown in Annex VIII.

Committee Observations and Findings

The Accounting Officer prepared and submitted to the Auditor General unverified amount of Kshs. 1,431,064,186 relating to the FY 2009/2010 that could not be traced in the Retention Money Register since serial numbers of the receipts accounting for the retention moneys were not indicated; Further as reported in 2011/12, an amount of Kshs. 11,822,080 released to a contractor was supported by receipts not issued for use in the Ministry's cash documents.

Committee Recommendations

1. **The EACC should expedite the completion of the investigation of irregularities into retention Funds for Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 with a view to prosecute those involved in the misuse of public funds if any; and**
2. **The Auditor General should within three (3) months after adoption of this report undertake a special audit on retention funds maintained at the State Department and report back to the National Assembly within three months.**

375.4 The schedule supporting the retention money had a closing balance of Kshs. 1,192,886,514.85 which include debit balances under various accounts amounting to Kshs. 233,311,537.07 implying irregular over-refunding of retention money. One contractor was paid Kshs. 17,213,703.00 when the account already had a debit balance of Kshs. 59,940,016.67 resulting in an overpayment of Kshs. 77,153,719.67. Payment voucher no. 008618 for the amount of Kshs. 17,213,703.00 paid was still not availed for audit review.

Submission by Accounting Officer

The Accounting Officer in stated it is true that the schedule supporting the Retention Money closing balance of Kshs. 1,192,886,515 reflected debit balances under various accounts amounting to Kshs. 233,311,537 implying irregular over-refunding of retention money. As explained in my response of paragraph 277.1, accounting documents in support of retention funds in respect of the above financial years were released to EACC for investigations.

Committee Observation and Finding

The Accounting Officer prepared and submitted to the Auditor General a schedule supporting the Retention Money closing balance of Kshs. 1,192,886,515 that reflected debit balances under various accounts amounting to Kshs. 233,311,537 implying irregular over-refunding of retention money.

Committee Recommendations

1. **The EACC should expedite the completion of the investigation of irregularities into retention Funds for Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 with a view to prosecute those involved in the misuse of public funds if any; and**
2. **The Auditor General should within three (3) months of tabling of this report undertake a special audit on retention funds maintained at the State Department and report back to the National Assembly.**

375.5 Debit balances reflected in the 2011/2012 statement of Kshs. 2,181,697,190.45 differed with balance of Kshs. 10,288,638,370.05 shown in the Ministry's trial balance as at 30 June 2012 by Kshs. 8,106,941,179.60. Similarly, the credit balances totaling Kshs. 2,181,697,190.45 differed with the trial balance totals of Kshs. 3,335,760,495.65 by Kshs. 1,154,063,305.20. Additionally, several accounts totaling Kshs. 72,528,192.2 and credit balances of Kshs. 16,549,108,680.20 shown in the trial balance were excluded from the statement of assets and liabilities as at 30 June 2012. All the above issues were unresolved as at 30 June 2013 and remained so in 2013/2014 and 2014/2015.

Submission by Accounting Officer

The Accounting Officer in stated it was true that Debit Balances reflected in the 2011/2012 Statement of Kshs. 2,181,697,190 differed with the balance of Kshs. 10,288,638,370 shown in the Ministry's Trial Balance as at 30th June, 2012 by Kshs. 8,106,941,180. Similarly, the Credit Balances totaling Kshs. 2,181,697,190 differed with the Trial Balance totals of Kshs. 3,335,760,496 by Kshs. 1,154,063,305. Additionally several accounts totaling Kshs.72,528,192 and Credit Balances of Kshs.16,549,108,680 shown in the Trial Balance were excluded from the Statement of Assets and Liabilities as at 30th June, 2015.
As explained in my response of paragraph 277.1, accounting documents in support of retention funds in respect of the above financial years were released to EACC for investigations.

Committee Observation and Finding

The Accounting Officer prepared and submitted to the Auditor General financial statements with unresolved balances in the retention funds dating back to the FY 2011/2012.

Committee Recommendations

1. **The EACC should expedite the completion of the investigation of irregularities into retention Funds for Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 with a view to prosecute those involved in the misuse of public funds if any; and**
2. **The Auditor General should within three (3) months of tabling of this report undertake a special audit on retention funds maintained at the State Department and report back to the National Assembly.**

Other Matters

376. Consultancy Services for Prospecting and Mapping of Road Construction Materials Sources

The Department entered into two consultancy contracts on 9 May 2014 of Kshs. 78,340,020 and Kshs. 51,500,125.60 for Hardstone materials and Natural materials respectively as follows:

376.1 Contract No. CME/002/Rd/2013-2014 for Consultancy Services for Prospecting and Mapping Sources of Hardstone Materials for Road Construction in Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi Counties was awarded to C. M. Kamau and Associates on 9th May 2014 for a contract sum of Kshs. 78,340,020. The contract was to commence on 26 May 2014 for fifteen months.

376.2 Contract No. CME/001/Rd/2013-2014 for Consultancy Services for Prospecting and Mapping Sources of Natural Materials/Gravel for Road Construction in Machakos, Makueni and Tharaka Nithi Counties was awarded to Norken (I) Ltd on 9 May 2014 for a contract sum of Kshs. 51,500,125.60. The contract was also to commence on 26th May 2014 for fifteen months.

The following was noted:

376.2.1Budgetary Allocation

Examination of Development Vote Estimates indicates that the two projects were not allocated any funds in the financial year 2014-2015.

376.2.2 Duplication of Scope

The two consultancies covered the same geographical area. It was not explained why the scope under the consultancy was not packaged as one consultancy.

376.2.3 Value for Money

There was no evidence on how the results of prospecting and mapping under the two consultancies were applied and the public did not obtain value for money.

377. Contract No.490/04 (Road 2000) Improvement and Gravelling of Athi Market – Kigucha Market Road D482

On 30 September 2002, the Ministry entered into a contract with Transnational Construction & Materials at a contract sum of Kshs. 20,940,180 for improvement and gravelling of Road D482. The Contract commenced on 25 October 2002 with completion date of 24 April 2003 (6 months).

The following was noted:

a. The contract was terminated on 22 February 2005 more than two years after the deadline of contract period of 24 April 2003.

b. No extension of time had been granted to the contractor despite several requests and no liquidated damages were demanded from the contractor.

c. Initial contract sum was Kshs. 20,940,180 but the contractor will be paid a total of Kshs. 63,655,268.97 made up of an arbitration award of Kshs. 55,235,909.97 and amount paid before contract termination of Kshs. 8,419,359.

d. The contractor did not complete the road works as the contract was terminated. The arbitrator in awarding the damages noted that the termination of the project did not follow the procedures laid out in the signed contract.

e. As at 30 June 2015, the Ministry had already paid a total of Kshs. 21,500,000 vide payment voucher No.240 dated 8 September 2014 for Kshs. 11,000,000 and payment voucher No.2124 dated 10 February 2015 for Kshs. 10,500,000 leaving unsettled balance of Kshs. 42,155,268.90 which continues to attract interest until settled in full.

f. In addition, as the initial contract sum was Kshs. 20,940,180, the extra expenditure of Kshs. 42,715,088.97 is a nugatory expenditure and should not have been a charge to public funds.

Submission by Accounting Officer

The Accounting Officer stated it was true the Department entered into two (2) Consultancy Contracts of Kshs. 78,340,020 and Kshs. 51,500,126 on 9th May 2014 for Prospecting and Mapping Sources of hard stone materials for road construction in Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi Counties for hard stone materials and natural materials as summarized below:

No	Counties Covered	Consultant	Contract sum
1.	Embu, Meru, Kitui, Machakos, Makueni and Tharaka/Nithi Counties	C. M. Kamau & Associates	78,340,020.00
2.	Machakos, Makueni and Tharaka/Nithi Counties	Norken International Limited	51,500,125.60
TOTAL			**129,840,145.6**

The Contracts were procured through Open Tender.

The Accounting Officer responded to the specific issues raised by the Auditor as follows:

i. Budgetary Allocation:

The Contracts were to be implemented in three (3) financial years in accordance with Materials Testing & Research Division (MTRD) Strategic Plan 2013-2017, Procurement Plans and Budgetary Allocations under Vote D1091, Head 1091000500 (Materials Department) and the item on Research, Feasibility Studies, Project Preparation and Design as indicated below.

Financial Year	Item	Description	Approved Estimates (Kshs.)
2013/2014	3111400	Research, Feasibility Studies, Project Preparation and Design, Project	71,668,800
2014/2015	3111400	Research, Feasibility Studies, Project Preparation and Design, Project	78,464,400
2015/2016	3111400	Research, Feasibility Studies, Project Preparation and Design, Project	93,150,000

Copies of Budget Provisions extracted from the approved budget are annexed to this report (Annex IX)

ii. Duplication of Scope:

The two Contracts overlapped in three Counties but the Scope of Services was different as explained below.

a. Contract No. CM/001 for Mapping of gravel sources covered 3 Counties namely: Machakos, Makueni and Tharaka-Nithi while.

b. Contract No. CM/002 for mapping of hard stone sources covered 6 Counties namely Embu, Meru, Kitui, Machakos, Makueni and Tharaka-Nithi.

The Scopes of Services to be provided under the two Contracts were different. The Scope under the Contract for Mapping of Gravel Sources involved prospecting and sampling of soils using hand tools for gravel/murram road pavement layers while the Contract for Mapping of Hardstone Sources was Equipment intensive and involved prospecting and sampling of rock using drilling rigs to depths exceeding 10m for aggregates for road surfacing and concrete structures. The two Scopes therefore required different Contractor capacities including the specialized equipment for efficiency and cost effectiveness for the two projects. (Annex X)

iii. Value for Money:

The Prospecting and Mapping of Sources of natural road construction materials is one of the strategies being undertaken by the Ministry to support the expansion of the Public Paved Road Network from 12,000Km (7.5%) to 24,000Km (15%) and to facilitate reduction of the overall infrastructure development and maintenance costs in accordance with Ministry's Strategic Objectives under the Second Vision 2030 Medium Term Plan (2013-2017).The programme is part of Research Programmes being undertaken by the Ministry through Materials Testing & Research Division (MTRD).

Committee Observations and Findings

1. **The Accounting Officer failed to provide satisfactory response to the Committee on audit query raised on the Contract No.490/0;**
2. **Road 2000) Improvement and Gravelling of Athi Market – Kigucha Market Road D482. The erstwhile Accounting Officer of the State Department in the FY 2003/2004 mismanaged the contract as shown below:**
    - **(i) The contract was terminated on 22 February 2005 more than two years after the deadline of contract period of 24 April 2003. No extension of time had been granted to the contractor despite several requests and no liquidated damages were demanded from the contractor;**

(ii) The initial contract sum was Kshs. 20,940,180 but the contractor was to be paid a total of Kshs. 63,655,268.97 made up of an arbitration award of Kshs. 55,235,909.97 and amount paid before contract termination of Kshs. 8,419,359;

(iii) The contractor did not complete the road works as the contract was terminated. The arbitrator in awarding the damages noted that the termination of the project did not follow the procedures laid out in the signed contract;

(iv) As at 30 June 2015, the Ministry had already paid a total of Kshs. 21,500,000 vide payment voucher No.240 dated 8 September 2014 for Kshs. 11,000,000 and payment voucher No.2124 dated 10 February 2015 for Kshs. 10,500,000 leaving unsettled balance of Kshs. 42,155,268.90 which continues to attract interest until settled in full; and

(v) In addition, as the initial contract sum was Kshs. 20,940,180, the extra expenditure of Kshs. 42,715,088.97 is a nugatory expenditure and should not have been a charge to public funds.

Committee Recommendation

The Accounting Officer should within three (3) months of tabling this report engage the Attorney General with a view to negotiating for settlement of the outstanding balance of Kshs. 42,155,268.90 which continues to attract interest;

25.2. STATE DEPARTMENT OF TRANSPORT

FINANCIAL STATEMENTS FOR VOTE 144

Prof. Paul M. Maringa, the Accounting Officer for Vote 144, State Department of Transport; accompanied by Mr. Johnson Wambugu; Chief Finance, Officer, Mr. George Wanjau, Chief Engineer; Ms. Priscilla Karanja, Ag. Chief Accountant; Mr. Kennedy Sakwa, DD- HRMD; Mr. Michael Outa, Technical Assistant to Principal Secretary; and Mr. Paul Mbiti, SSCMA appeared before the Committee on 29th January 2018, 18th February 2018, 14th June 2018, 819h June 2018, and 2nd August 2018, to adduce evidence on the audited Financial Statements for Vote 144 State Department of Transport for the Financial Year (FY) 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Adverse Opinion

378. Inaccuracies in the Financial Statements

378.1 Statement of Receipts and Payments.

378.1.1 The statement of receipts and payments reflects total payments amounting to Kshs.161, 204,337,094.00 out of which an amount of Kshs.5, 911,485,177.00 relates to transfers to other government entities. However, the analysis provided reflects total transfers amounting to Kshs.5, 914,753,648.75 resulting in a variance of Kshs.3, 628,472.75. Further, included in the amount of Kshs.5, 914,753,648.75 is expenditure totaling Kshs.3, 652,627,848.00 that does not relate to transfers to other government entities.

Submission by Accounting Officer

The Accounting Officer stated that it was true that by the time of the Audit the Statement of receipts and payments reflected total payments amounting to Kshs.161, 204,337,094.00 out of which an amount of Kshs.5, 911,485,177.00 related to transfers to other government entities. However, the analysis provided then reflected total Kshs.5,914,753,648.75 resulting in a variance of Kshs.3,628,472.75 and further, included in the amount of Kshs.5,914,753,648.75 was an expenditure totaling Kshs.3,652,627,848.00 that did not relate to transfers to other government entities. This is to state that at the time of submitting the Financial Statements to the Auditor General for review, there were a number of reconciliations in the IFMIS for the period under review that had not been concluded and this contributed to the inaccuracies in the Financial Statements.

The financial statements have been revised and the statement of receipts and payments hence reflects total receipts of Kshs. 160,509,793,354.00 and total payment of Kshs. 160,505,527,356.00 with a surplus of Kshs. 4,265,998.00.

Out of the total payments of Kshs.160, 505,527,356.00 the amount that relates to the transfer to other Government entities is Kshs. 5,984,951,766.00 which is analyzed as per appendix I attached (Note 10- 2014/2015 Revised Financial Statements) As reflected in appendix I (b) the disbursement to government entities is Kshs. 3,065,139,375.75 the balance of Kshs. 2,919,812,390.25 relates to payments to projects which had been budgeted under the same item.

Committee Observations and Findings

The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records that are reconciled and devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

Committee Recommendation

Mr. Nduva Muli, the erstwhile accounting officer of the entity should be held responsible for failure to ensure that the entity kept complete financial and accounting records that are reconciled and devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

378.1.2 The statement of receipts and payments reflects a deficit of Kshs.7, 677,185,613 for the year ended 30 June 2015. However, as the financial statements are prepared under cash basis, it has not been possible to establish the source of funds amounting to Kshs.7, 677,185,613 utilized to meet the deficit.

Submission by the Accounting Officer

The Accounting stated that it was also true that at the time of this audit the Statement of receipts and payments reflected a deficit of Kshs.7, 677,185,613.00 for the year ended 30 June 2015 and that the financial statement is prepared under cash basis and thus it had not been possible to establish the source of funds amounting to Ksh. 7,647,185,613.00 utilized to meet the deficit.

The financial statements have been revised and the statement of receipts and payments now reflects a surplus of Kshs. 4,265,998.00as opposed to a deficit of Kshs. 7,677,185,613.00. However, there are a number of unreconciled items in the trial balance such as cash-in-hand which reads Kshs. 7,412,421,965.90 among others. We are in consultation with the National Treasury on how these items will be fully addressed.

Committee Observation and Finding

The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records that are reconciled and devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

Committee Recommendation

Mr. Nduva Muli, the erstwhile accounting officer of the entity should be held responsible for failure to ensure that the entity kept complete financial and accounting records that are reconciled and devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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(2)(k) of the PFM Act 2012.

378.2 Statement of Financial Assets and Liabilities

378.2.1 The Statement of Assets And Liabilities As 30 June 2015 Reflects A Suspense Of Kshs. 7,593,331,321 Which has been explained under note 18 as payments funded other than through exchequer or receipts but whose details or specifics has not been provided. Further, the statement of cash flows indicates the same suspense balance of Kshs.7, 593,331,321 the source of which is not known.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of assets and liabilities as at 30 June 2015 presented for audit reflected suspense balance of Kshs.7, 593,331,321.00 which was explained under note 18 as payments funded other than through exchequer or receipts but whose details or specifics were not provided and further the statement of cash flows indicated the same suspense balance Kshs.7, 593,331,321.00 the source of which was not known by the time of the audit.

The figure of Kshs.7, 593,331.321.00 under suspense account was as a result of the inaccuracies of the trial balance. The Department has attempted to reconcile the figures in the IFMIS. However, there are a number of unreconciled items such as cash-in-hand of Kshs. 7,412,421,965.90 among others, which are yet to be fully reconciled. The Department have engaged the National Treasury to help address this issue of unreconciled items in the trial balance.

Committee Observations and Findings

1. **The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records that are reconciled and devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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; and**
2. **The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at**

automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies such as reconciliations.

Committee Recommendation

1. **Mr. Nduva Muli, the erstwhile accounting officer of the entity should be held responsible for failure to ensure that the entity kept complete financial and accounting records that are reconciled and devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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; and**
2. **The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution and seal loophole for siphoning public money.**

379. Unsupported Payments

Examination of the department's cash book revealed that a total of Kshs.4, 284,400.00 was paid from development vote as shown below but no supporting payment vouchers were availed:

PV No	Payee	Amount
728	Starlet quick supplies	1,488,200.00
223	Bel-Air Services	10,000.00
668	Rifesho Africa	435,000.00
773	Lyahi Services	2,100,000.00
1605	Easy Tours and Travel	251,200.00
Total		4,284,400.00

The expenditure of Kshs.4, 284,400.00 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that on examination of the department cash book it revealed that a total of Kshs. 4,284,400.00 was paid from development vote as shown below but no supporting payment vouchers were availed at the time of audit.However, these documents have now been made available to the auditor for verification.

Committee Observation and Finding

The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records supported by the necessary documents including payment vouchers in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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;

Committee Recommendations

1. **Mr. Nduva Muli, the erstwhile accounting officer of the entity should be held responsible for failure to ensure that the entity kept complete financial and accounting records that are supported by necessary documents including payment vouchers compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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(2) of the PFM Act 2012; and**
2. **Mr. Nduva Muli has consistently demonstrated his inability to manage public finances in line with the provisions of Article 201 of the Constitution of Kenya, 2010 and Section 68(2) of the PFM Act 2012. The Cabinet Secretary National Treasury should never at any time designate Mr. Nduva Muli as an Accounting Offiicer for any State Department/Government Agency. If Mr. Nduva Muli is presently an accounting officer, his appointment should be revoked within three months of adoption of this report.**

380. Budgetary Control

Examination of the combined recurrent and development appropriation accounts for 2014/2015 revealed an expenditure of Kshs. 161,204,337,095 against a budget of Kshs. 187,742,634,777 representing an under-expenditure of Kshs. 26,538,297,682 i.e. 14 percent under-utilization. In addition, note 19.1 reflect pending bills of Kshs.2, 408,879,264.85. Had the pending bills been paid the under-utilization would have reduced by the same amount (Kshs.2, 408,879,264.85). Further, no analysis had been provided to give the details of the pending bills as required by Kenya Public Sector Accounting Standards Board

Submission by Accounting Officer

The Accounting Officer in stated that it was true that at the time of the audit an Examination of the combined Recurrent and Development appropriation accounts for 2014/2015 revealed an expenditure of Kshs. 161,204,337,095.00 against a budget of Kshs.187, 742,634,777.00 representing an under-expenditure of Kshs.26, 538,297,682.00 i.e. 14 percent underutilization.

The revised 2014/2015 financial statements now reveal an expenditure of Kshs. 160,505,527,356.00 against budget of Kshs. 187,742,634,777.00 representing an under-expenditure of 14.5percent.The bulk of funding is given from donor which comes with stringent conditions. Implementations of projects under KAA were affected by operational challenges that included fire outbreak at JKIA that delayed the process of implementation of the projects resulting to low absorption. Also affecting the under-utilization was projects under KPA- the process of recognition of cost in KPA books of accounts. The procedure is, work done has to be certified by the project office in Japan for authentication and returned back for recognition in KPA books of accounts before it is captured as expenditure in ministry's financial statements.

Further it is true that Note 19.1 reflected pending bills of Kshs. 2,408,879,246.85 and had the pending bills been paid the under-utilization would have reduced by the same amount (Kshs. 2,408,879,264.85). These pending bills arose because some invoices remain unpaid due to lack of exchequer during the month of June 2015. Additionally, some invoices were presented after the invoicing module in the IFMIS was closed and hence could not be processed fully in the IFMIS. However, these form the first charge in the subsequent financial year. Further, it was observed that no analysis had been provided to give the details of the pending bills as required by Kenya Public Sector Accounting Standards board. Upon the revision of the financial statement the pending bills have been restated to of Ksh.420, 254,488.95 these being what was paid as a first charge in the financial year 2015/2016, the list of which has been provided to the auditor for verification.

Committee Observations and Findings

1. **The State Department's financial statements recurrent and development appropriation accounts for 2014/2015 revealed an expenditure of Kshs. 161,204,337,095.00 against a budget of Kshs.187, 742,634,777.00 representing an under-expenditure of Kshs.26, 538,297,682.00; and**
2. **The State Department had pending bills of Kshs. 2,408,879,246.85 and had the pending bills been paid the under-utilization would have reduced by the same amount (Kshs. 2,408,879,264.85). These pending bills arose because some invoices remain unpaid due to lack of exchequer during the month of June 2015.**

Committee Recommendation

1. **The Accounting Officers should at all cost avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget; and**

2. **The Cabinet Secretary for the National Treasury should put in place robust cash flow management systems in government that ensures there is adequate and timely financing of government programmes and projects to avoid incurring costly pending bills attributed to delays/inadequate exchequer releases.**

381. Government Clearing Agency

The State Department of Transport reflects expenditure by Government Clearing Agency totaling Kshs.81, 725,454 for the year ended 30 June 2015. However, the financial statements of the Agency prepared by the National Treasury and submitted for audit reflects receipts of Kshs.1, 747,692 while the State Department of Transport indicates receipts of Kshs.1, 341,835.00 resulting in an unexplained variance of Kshs.405, 857.

Submission by Accounting Officer

The Accounting Officer in stated that it was true that the State Department of Transport reflects expenditure by Government Clearing Agency totaling Ksh.81, 725,454.00 for the year ended 30 June 2015. It is also true that the financial statements of the Agency prepared by the National Treasury and submitted for audit reflects receipts of Kshs.1, 747,692.00 while the State Department of Transport indicates receipts of Kshs.1, 341,835.00

Note 13 of the financial statement from the National Treasury shows a total receipt of Kshs.1, 747,692.00 made of transfers to other Government Agencies (Government Clearing Agency-state department for transport) Kshs.1, 341,835.00 and a balance of Kshs. 384,857.00 refund to deposit which did not relate to State Department for Transport.

Thus there was no variance between what was reported as having been paid by the National Treasury and what was received by the State Department of Transport as shown in appendix II of the submission on Financial Statements of Government Clearing Agency from the National Treasury.

Committee Observations and Findings

There was no variance between what was reported as having been paid by the National Treasury and what was received by the State Department of Transport since the financial statement from the National Treasury showed a total receipt of Kshs.1, 747,692.00 made of transfers to other Government Agencies (Government Clearing Agency-State Department for transport) Kshs.1, 341,835.00 and a balance of Kshs. 384,857.00 refund to deposit which did not relate to State Department for Transport.

382. Unaccounted for Deposits

As reported in the previous year, the financial statements of Ministry of Transport and Infrastructure for the year ended 30 June 2014 omitted the statement of deposits and a deposits bank balance of Kshs.558, 884,792.25 held in Central Bank Account No.1000182188.

A review of the deposits balance during the year revealed that, out of the bank balance of Kshs. 558,884,792.25 and as per reconciliation dated 8 September 2014, the State Department of Transport received Kshs. 101,772,643.55 and the State Department of Infrastructure received the balance of Kshs. 457,112,148.70. However, and although the State Department of Transport received Kshs. 101,772,643.55, only Kshs. 63,266,317.05 was accounted for, leaving Kshs. 38,506,326.50 unaccounted for.

Submission by Accounting Officer

The Accounting Officer confirmed that it was also true that as reported in the previous year, the financial statements of Ministry Transport and Infrastructure for the year ended 30th June 2014 omitted the statement of deposits and a deposits bank balance of Kshs. 558,884,792.25 held in Central Bank Account No. 1000182188.

The Auditors indicated that a review of the deposits balance during the year revealed that, out of the bank balance of Kshs. 558,884,792.25 and as per reconciliation dated 8 September 2014, the State Department of Transport received Kshs. 101,772,643.55 and the state department for infrastructure received the balance of Kshs. 457,112,148.70. However, at the end of the financial year the state Department for Transport was only able to analyze and support Kshs.63, 266,317.05. It is noted that the state department for transport received Kshs. 63,266,317.05 in its deposit bank account as opposed to Kshs. 101,772,643.55 indicated herein. A copy of the deposit bank Account No. 1000212551 statement showing the opening balance of Kshs.63, 266,317.05 is herein attached also a letter from the National Treasury instructing the CBK to transfer the balance of Ksh. 38,506,326.50 and close the old account; a letter from CBK confirming transfer of Ksh. 38,506,326.50 to the Exchequer and an Exchequer account bank statement extract reflecting receipt of Ksh. 38,506,326.50 are attached.

Committee Observations and Findings

The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records that are reconciled and supported by the necessary documents including payment vouchers in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

Committee Recommendation

Mr. Nduva Muli, the erstwhile accounting officer of the entity should be held responsible for failure to ensure that the entity kept complete financial and accounting records that are supported by necessary documents including payment vouchers compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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(2) of the PFM Act 2012.

MECHANICAL AND TRANSPORT FUND

Basis for Qualified Opinion

383. Travel and Subsistence allowance

As reported in the previous year, reserves balance as at 30 June 2015 of Kshs.1, 822,476,555.50 includes an amount of Kshs.1, 621,691,003.34 brought forward from the financial year 2013/2014. This amount is net of Kshs.3, 813,000.00 paid as Travel and Subsistence Allowance for the period ending 30 June 2014. The expenditure was incurred to cater for a ministerial team building retreat at the Great Rift Valley lodge held from 17th through 20th July 2013 on the premise that the same would be refunded to the Fund by the Parent Ministry. However, as at 30 June 2015 there was no evidence that the same had been refunded by the parent ministry and therefore the total expenditure of Kshs.3, 813,000 should not be a charge to the Fund's reserves.

Submission by Accounting Officer by Accounting Officer

The Accounting Officer confirmed that it was true that as reported in the previous year, reserves balance as at 30 June 2015 of Kshs.1, 822, 476, 55.50 includes an amount of Kshs.1, 621,691,003.34 brought forward from the financial year 2013/2014. This amount was net of Kshs. 3, 813, 000, 00 paid as Travel and Subsistence allowance for the period ending 30 June 2014. The expenditure was incurred to cater for a ministerial team building retreat at the Great Rift Valley Lodge held from 17 through to 20th July 2013 on the premise that the same would be refunded to the Fund by the Parent Ministry. However, as at 30 June 2015 there was no evidence that the same had been refunded by the Parent Ministry and therefore the total expenditure of Kshs. 3,813,000.00 should not have been charged to the Fund's reserves.

The amount of Kshs. 3,813,000.00 incurred to cater for a ministerial team building retreat at the Great Rift Valley Lodge held from 17 through to 20th July 2013 was refunded by the Parent Ministry on 29 June 2016 as reflected in the attached KCB Account No. 1102590339 Bank statement on 29th June 2016 and Mechanical and Transport Fund Receipt Voucher (F0 17) dated 30 June 2016.

Committee Observations and Findings

1. **The Fund incurred an expenditures amount of Kshs. 3,813, 000.00 paid as Travel and Subsistence allowance for the period ending 30th June 2014 to cater for a ministerial team building retreat at the Great Rift Valley Lodge held from 17 through to 20th July 2013 on the premise that the same would be refunded to the Fund by the Parent Ministry; and**
2. **The amount was later refunded by the Parent Ministry on 29th June 2016 as reflected in the attached KCB Account No. 1102590339 Bank statement on 29th June 2016 and Mechanical and Transport Fund Receipt Voucher (F0 17) dated 30 June 2016.**

384. Supply of Computers and Related Equipment

As previously reported, Kenya National Highways Authority paid Kshs. 25,564,350 vide payment voucher no. 17690 dated 23 July 2014 to M/s Intermass Technologies (E.A) Limited for a pending bill relating to 2013/2014 financial year. The supplier was competitively awarded the contract for the supply of three (3) Rack-Mount type computer servers; Ninety-Four (94) Standard Desktop Computers; Twelve (12) Touchsmart Desktop Computers; Eight (8) Laptop Computers and Forty-Six (46) Integrated Service Routers on 13 June 2103 at their tender sum of Kshs.25, 564,350.00 which were purchased for Mechanical and Transport Fund under Northern Corridor Transport Improvement Project, IDA Credit Nos. 3930 - KE and 4571- KE.

The supplier is said to have delivered the goods to Mechanical and Transport Fund of the Ministry of Transport and Infrastructure on 19 November 2013 vide delivery note No. 1063. The Inspection and Acceptance committee inspected and accepted only Eight (8) laptop computers and Nineteen (19) Integrated service routers all valued at Kshs.2,975,150.00. It is further reported that the rest of the goods though delivered were misappropriated before they could be inspected by the inspection and acceptance committee. Despite the forgoing and although the goods received notes were not issued, Kenya National Highways Authority paid for all the goods vide Payment Voucher Number 17690 dated 23.07.2014 for Kshs. 22,589,200.00.

In the circumstances, value for money was not obtained from the expenditure of Kshs.22, 589,200.

Submission by Accounting Officer

The Accounting Officer in stated that as previously reported, Kenya National Highways Authority paid Kshs. 25,564,350.00 vide payment voucher no. 17690 dated 23 July 2014 to M/s Intermass Technologies (EA) Limited for a pending bill relating to 2013/2014 financial year. The supplier was competitively awarded the contract for the supply of three (3) Rack-mount type computer servers; ninety-four (94) Standard Desktop Computers; Twelve (12) touchsmart Desktop Computer; eight (8) Laptop computers and forty-six (46) Integrated Service Routers on 13th June 2013 at their tender sum of Kshs.25, 564,350.00 which were purchased for Mechanical and Transport fund under Northern Corridor Transport improvement project, IDA Credit Nos. 3930-KE and 4571-KE.

It was true the goods were delivered to Mechanical and Transport Fund of the Ministry of Transport and Infrastructure on 19 November 2013 vide delivery note No. 1063. The inspection and Acceptance committee inspected and accepted only eight (8) laptop computers and Nineteen (19) Integrated service routers all valued at Kshs.2,975,150.00. It is further reported that the rest of the goods though delivered were misappropriated before they could be inspected by the inspection and acceptance committee.

This was to state that the goods were received in the morning of 19th November, 2013 in Mechanical and Transport Fund warehouse stores vide the signed delivery note No.1063. However, on the weekend of 24th November, 2013 between 10: 20a.m and 11:30a.m there was a break-in in the stores where the Computers accessories and other stores were stolen. The same was reported to the Industrial Area Police Station, by the security officer on the same day. From the CCTV footage it was apparent the guards from the contracted security firm (M/s Secure Homes Ltd.) facilitated the whole theft by opening the gates for the criminals to enter with a station wagon vehicle and later a lorry. The Criminal Investigation Department used this information and managed to arrest and charge one of the guards in Makadara Law Courts. According to the CID they have not been able to apprehend the others.Despite the forgoing and although the goods received, Kenya National Highways Authority paid for all the goods vide payment voucher Number 17690 dated 23.07.2014 for Kshs.22, 589,200.00.

The CID were also able to trace and impound the vehicle involved in the theft and subsequently charged the owner with the offence. The case is also in the court as per the attached documents The Attorney General has also taken up the matter on behalf of the Ministry as per letter No. MOTI/1A.42.01 Vol. 6 dated 29th March, 2016.

Committee Observations and Findings

1. **The Kenya National Highways Authority paid Kshs. 25,564,350.00 on 23rd July 2014 for the supply of three (3) Rack-mount type computer servers; ninety-four (94) Standard Desktop Computers; Twelve (12) touchsmart Desktop Computer; eight (8) Laptop computers and forty-six (46) Integrated Service Routers on 13th June 2013;**

2. **The inspection and Acceptance committee inspected and accepted only eight (8) laptop computers and Nineteen (19) Integrated service routers all valued at Kshs. 2,975,150.00 since the rest of the items were stolen on the weekend of 24th November, 2013 before they could be inspected by the inspection and acceptance committee; and**

3. **The matter was duly reported to the police and the CID is handling the case which is now court. The Attorney General has also taken up the matter on behalf of the Ministry as per letter No. MOTI/1A.42.01 Vol. 6 dated 29th March, 2016.**

Committee Observations and Findings

1. **The Accounting Officers should ensure that government properties including assets and buildings under their custody are properly protected to avoid such cases of negligence and collusions leading to loss of public funds; and**
2. **All the Accounting Officers should within three (3) of tabling and adoption of this report ensure that all the contracted services including security services engaged by their entities provide indemnity cover for negligence of their employees as a prerequisite condition before signing any service contract with the entity.**

RAILWAY DEVELOPMENT LEVY FUND (OPERATIONS ACCOUNT)

Basis for Qualified Opinion

385. Non-Disclosure of proceeds from the Railway Development Levy in the Financial Statements for the year ended 30 June 2015.

Section 3(a) of the Legal Notice no. 118 states that the Fund shall consist of the proceeds of the Railway Development Levy charged under section 117A of the Customs and Excise Act. The statement of Receipts and Payments for the year ended 30 June 2015 excludes total proceeds (receipts) of Railway Development Levy charged under Section 117A of the Customs and Excise Act but has only disclosed Exchequer releases by the National Treasury amounting to Kshs.19, 252,240,845. The Fund Administrator has therefore breached the law and the total receipts figure for the year ended 30th June 2015 is understated with the undisclosed Railway Development Levy Collected for the year under review.

Submission of the Accounting Officer

The Accounting Officer stated that it is true that section 3 (a) of the legal notice No.18 states that the fund shall consist of the proceeds of the Railway Development Levy charged under section 117 A of the Customs and Excise Act.

The statement of Receipts and payments for the year ended 30th June, 2015 that was presented for audit review by the State Department for Transport is the Railway Development Levy Fund - Operations Account which excludes total proceeds (receipts) of Railway Development Levy charged under section 117 A of the Customs and Excise Act but has only disclosed Exchequer release by the National Treasury amounting to Kshs.19, 252,240,845.00.

The Railway Development Levy Fund Holding Account is held at the Central Bank of Kenya and maintained by the National Treasury-who is the Fund Administrator. The funds are transferred to the Railway Development Fund - Operations Account administered by the Principal Secretary responsible for Transport and on recommendation of the Advisory Committee of Treasury. The management of the funds overseen by the Advisory Committee established under the Customs and Excise Act section 10 and 11 (C). Section 81 of the Public Financial Management Act 2-12, the National Treasury is required to not later than three months after end of each financial year, prepare and submit to the Auditor General financial statements for that year in respect of the Holding Account.

The Financial Report in accordance with section 3 (a) of the legal notice No 18 has been prepared and covers operations of the Railway Development Levy Fund Holding Account for financial year ended 30th June, 2015. The statement of Receipts and payment has given the full disclosure showing the total receipts as per section 117 A of the Customs and Excise Act of Kshs 18,740,340,683.35 and transfers to State Department for Transport of Ksh.19,252,240,843.45. From the forgoing, the Fund Administrator has disclosed total receipts as per Appendix VI attached (Financial for Railway Development Levy from National Treasury.

Committee Observations and Findings

The statement of receipts and payment prepared by the Fund Administrator has given the full disclosure showing the total receipts as per section 117 A of the Customs and Excise Act of Kshs 18,740,340,683.35 and transfers to State Department for Transport of Ksh. 19,252,240,843.45.

NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT (NCTIP) - IDA CREDIT NO. 3930 KE (MOT COMPONENT)

Basis for Qualified Opinion

386. Special Account Reconciliation

Note 6.2 to the financial statements reflects receipts from IDA amounting to Kshs.1,883,707.20 while the Special Account Statement prepared by the National Treasury reflects Kshs.6,504,834.55. The variance of Kshs.4, 621,127.35 has not been reconciled.

Submission by Accounting Officer

The accounting officer submitted that it was true that Note 6.2 to the financial statements reflects receipts from IDA amounting to Kshs.1, 883,707.20 while the Special Account Statement prepared by the National Treasury reflects Kshs.6, 504,834.55 resulting in a variance of Ksh.4,621,127.35 had not been reconciled by the time of the audit.

This variance of Ksh.4, 621,127.35 constituted exchequer omissions in the State Department for Transport Financial Statements: -

i. An Exchequer of Kshs 1,270,222.00 dated 10th March 2015, Exchequer notification Ref. No. DE: 305/14/15 which was omitted in the projects Financial Statements for the year under review since it was transferred to the Project Account in the subsequent financial year.

ii. An Exchequer of Kshs 3,350,905.35 that was erroneously directed to the State Department of Infrastructure instead of State Department for Transport as evidenced by the letter of correspondents Ref. EA/ERD/ADF/L/384 dated 20th January 2016) as per Appendix VII attached (Special account reconciliation).

These two exchequers have been accounted for in the subsequent financial year 2015/2016

Committee Observation and Finding

The Accounting Officer failed to reconcile in time the financial statements which reflected receipts from IDA amounting to Kshs.1, 883,707.20 while the Special Account Statement prepared by the National Treasury reflected Ksh. 6,504,834.55 resulting in a variance of Ksh. 4,621,127.35 which had not been reconciled by the time of the audit.

Committee Recommendation

Mr. Nduva Muli, the erstwhile accounting officer of the entity should be held responsible for failure to ensure that the entity kept complete financial and accounting records that are reconciled in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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(2) of the PFM Act 2012;

26.0. MINISTRY OF ENVIRONMENT, WATER AND NATURAL RESOURCES

26.1. STATE DEPARTMENT FOR ENVIRONMENT AND NATURAL RESOURCES

FINANCIAL STATEMENTS FOR VOTE 145

Mr. Ali Noor Ismail the Accounting Officer for Vote 145, Environment and Natural Resources; accompanied by Hon Mohamed Elmi; Cabinet Administrative Secretary, Mr. Stephen Karani; Environment and Forestry, Henry M Obino; DA- MER, Stella Aura Mbs; Ag Director –KMD, Joseph Mutuma; SCFO-ME&F, Remjius Okongo; P.A- ME&F, Peninah Njugunah; Aag-Me&, Lawrence Simitu, E M. Shitan; DHD, Donnie Muyera; SCMO, Peter Mutai; CM, Chepkemoi Kerich , Agnes C Tobteruk ; DPPRS, Erick F. N. Akotsi; DURR appeared before the Committee on 29th January 2018, 24TH July 2018 and 27th September 2018 to adduce evidence on the audited Financial Statements of Vote 145 the State Department for Environment and Natural Resources for the Financial Year 2014/2015. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Adverse Opinion

BasisforAdverse Opinion

387. Accuracyand Completenessof theFinancialStatements

387.1 Undated FinancialStatements

The financial statements forwarded for audit review for the year ended 30 June 2015 though signed have not been dated as required by the accounting standards.Further, progress on previous year audit issues has not been included in compliance with IPSASs Template as prescribed by the Public Sector Accounting Standards Board.

Submission by the Accounting Officer

The Accounting Officer submitted that it was true that the Financial Statements forwarded for Audit review for the year ended 30th June, 2015 though signed had not been dated. Though it has also been indicated that progress on previous year Audit issues had not been included.

The error was inadvertently commited and it is highly regretted. The Ministry has ensured that the subsequent financial statements are duly signed and dated. With regard to progress on previous year Audit issues these were addressed on page 42 (note 28) in the audited financial statements.

Committee Observations and Findings

1. **Previous year Audit issues these were addressed on page 42 (note 28) in the audited financial statements.**
2. **The Committee marked the matter as resolved.**

3. **The State Department failed to submit the previous year audit responses in compliance with IPSASs Template as prescribed by the Public Sector Accounting Standards Board pursuant to the provisions of section 74(4)(a) of the Public Finance Management Act, 2012.**

Committee Recommendations

Accounting officers must at all times ensure that they include previous year audit issues in compliance with IPSASs Template as prescribed by the Public Sector Accounting Standards Board pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

387.2 Comparative Figures

The comparative figures for the 2013/2014 are for the two State Departments of Environment and Natural Resources and that of Water and Regional Development when the twoweremerged.Further,the comparative figures were not separated or restated toreflect what belongs tothe State Department of Environment and Natural Resources.

Submission by the Accounting Officer

The Accounting Officer submitted that the comparison was unavoidable due to the fact that there existed a vote designated as the Ministry of Environment, Water and Regional Development. Therefore, the basis for comparison during the year under review would have been the previous votes against the State Department of Environment and Natural Resources. The National treasury has no clear policy guidelines on mergers and demergers hence it was not possible to separate the budgetary provisions for the former Ministry of Environment, Water and Regional Development into (2) components for comparison purposes. The Ministry is in consultation with the National Treasury seeking guidance on the same.

Committee Observations and Findings

1. **The National treasury has no clear policy guidelines on mergers and demergers hence it was not possible to separate the budgetary provisions for the former Ministry of Environment, Water and Regional Development into (2) components for comparison purposes.**
2. **The Ministry is in consultation with the National Treasury seeking guidance on the same.**

Committee Recommendations

1. **The Accounting officer should move to resolve the matter in consultation with the National Treasury within three months of the adoption of this report.**
2. **Within three months of the adoption of this report, the National Treasury must develop guidelines on mergers and demergers of state departments.**

387.3 Statement of Cash Flows

The opening cash balance as at the beginning of 2014/2015 of negative Kshs.49,069,945 is at variance with the closing balance for 2013/2014 of Kshs.69,355,058 resulting to an unexplained difference of Kshs.118,423,003. Further, the2013/2014 closing cash and cash equivalents of Kshs.913, 355,099 differs with the opening balanceof Kshs.69, 355,058. In addition, the net change movement in receivables and payables balances of Kshs.4, 269,760 and Kshs.65, 972,866 are not in agreement with the statement of assets (working capital) figures of Kshs.839, 730281 and Kshs. 444,616 respectively. As a result, the accuracy of the statement of cash flows could not be as certained.

In view of the foregoing, the accuracy and completeness of the financial statements for the year ended 30 June 2015 could not be confirmed.

Submission by the Accounting Officer

The Accounting Officer submitted that the necessary adjustments were done for the prior years in the 2015/16 financial statements and this matter has not featured in the subsequent Financial Years.

Committee Observations and Findings

1. **The necessary adjustments were done for the prior years in the 2015/16 financial statements and this matter has not featured in the subsequent Financial Years.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

388. Budgetary Control and Performance

388.1 Revenue Shortfalls

The exchequer release of Kshs.13,559,041,646 as at 30 June 2015 was short of the approved budget figure of Kshs.15,083,196,218 resulting into an unexplained variance ofKshs.1,524,154,572. Further, the Ministry received other receipts of Kshs.2, 749,307,943 against a budget of Kshs.4, 293,493,269 as shown below.

No	Item	Bud	Actual (Kshs.)	Varia
1	Recurrent	8,311,291,	7,864,900,000	446,391,
2	Development	6,771,904,	5,694,141,646	1,077,762,
	Subtotal	**15,083,196**	**13,559,041,646**	**1,524,154,**
3	DomesticandForeignGrants	573,850,	0	573,850,
4	Proceedsfrom Foreign	881,400,	41,400,000	840,000,
5	Saleof non-financialassets	2,345,091,	2,329,019,269	16,072,
6	OtherReceiptsDevelopment	493,150,	378,888,674	114,261,
	Subtotal	**4,293,492,**	**2,749,307,943**	**1,544,184,**
	Grand-Total	**19,376,688**	**16,308,349,589**	**3,068,338,**

The overall revenue and borrowings shortfall of Kshs.3,068,338,898 reflects negatively on implementation of planned and budgeted activities of the Ministry.

Submission by the Accounting Officer

The Accounting Officer submitted that that the variance was occasioned by non-release of exchequer by the National Treasury as well as non-release of both foreign grants and borrowings by the donors. The exchequer issues received was only Kshs. 16,308,349,589 against an approved budget of Kshs. 19,376,688,487 resulting to a deficit of Kshs.3, 068,338,898 which negatively impacted on our performance.

The State Department received only Kshs.41, 400,000 against a budgeted amount of Kshs.881,400,000 of foreign borrowing resulting to a shortfall of Kshs. 840,000,000.

The Ministry was liaising with the National Treasury from time to time to ensure that all the Exchequers are released in good time to facilitate the implementation of the activities of the Ministry. In addition, the Ministry has taken necessary measures to ensure that what is captured in the budget for both domestic and foreign grants/loans will be realistic to avoid the issue of short falls in revenue.

Committee Observations and Findings

1. **The variance was occasioned by non-release of exchequer by the National Treasury as well as non-release of both foreign grants and borrowings by the donors.**
2. **The Ministry was liaising with the National Treasury from time to time to ensure that all the Exchequers are released in good time to facilitate the implementation of the activities of the Ministry.**
3. **The Ministry has taken necessary measures to ensure that what is captured in the budget for both domestic and foreign grants/loans will be realistic to avoid the issue of short falls in revenue.**

Committee Recommendations

Accounting officers must at all times ensure that what is captured in the budget for both domestic and foreign grants/loans is realistic to avoid the issue of short falls in revenue pursuant to the provisions of section 81(2) (a)(v) of the Public Finance Management Act, 2012.

388.2 Under ExpenditureBudgetAnalysis

The analyses between the budgeted provisions against the actual expenditure reflect on overall under expenditure ofKshs.3,057,948,032 as shown below;

No.	Item	Budget	Actual	Variance
1	Compensationof	1,287,401,669	1,246,087,942	41,313,727
2	Useof Goodsand Services	2,251,646,994	1,348,268,943	903,378,052
3	TransfertootherGovernmentUnits	10,198,861,246	9,542,051,154	656,810,092
4	SocialBenefits	14,300,000	13,929,593	370,407
5	OtherGrantsandTransfers	33,600,000	31,689,430	1,910,570
6	Acquisitionof Assets	5,590,878,578	4,136,713,393	1,454,165,18
	Total	**19,376,688,48**	**16,318,740,45**	**3,057,948,03**

Further, the huge unexplained under expenditure of Kshs.3, 057,948,032 impliesnon-delivery of planned development facilities and services.

Submission by the Accounting Officer

The Accounting Officer submitted that the under expenditure was occasioned by non-release of exchequer by the National Treasury and non-release of foreign Grants as well as proceeds from Foreign Borrowings by the donors.

The difference between the payroll payments and the budget of Kshs 41,313,727 was the money that was provided for recruitment of 60 Meteorological Assistants but the exercise delayed up to September, 2015.

The Ministry is now working closely with both the National Treasury and our foreign donors to ensure that all exchequers and foreign proceeds.

Committee Observation and Finding

The under expenditure was occasioned by non-release of exchequer by the National Treasury and non-release of foreign Grants as well as proceeds from Foreign Borrowings by the donors

The difference between the payroll payments and the budget of Kshs 41,313,727 was the money that was provided for recruitment of 60 Meteorological Assistants but the exercise delayed up to September, 2015.

Committee Recommendation

Accounting officers must at all times ensure that they liaise with the National Treasury from time to time to ensure that all the exchequers are released in good time to facilitate the implementation of the activities of the entity pursuant to the provisions of section 68 (2)(n) of the Public Finance Management Act, 2012.

388.2.1 Useof Goods andServices

During the year under review,the Ministry spentatotalofKshs.1,348,268,943against the approved budget provision ofKshs.2,251,646,994 resultingin an underspending of Kshs.903,378,052 or40%.

It was however noted that the supporting schedules reflected a balance of Kshs.1,310,817,675 resulting in an unexplained variance of Kshs.37,451,268.00.

Submission by the Accounting Officer

The Accounting Officer submitted that the under expenditure of Kshs.903, 378,052 was occasioned by non-release of exchequer and lengthy procurement processes/procedures.

The supporting schedule and the statement have since been reconciled hence addressing the variance of Kshs.37, 451,268.

Committee Observations and Findings

1. **The supporting schedule and the statement have since been reconciled hence addressing the variance of Kshs.37, 451,268.**

2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

388.2.2 Acquisition of non-financial Assets

The Ministry spent a total of Kshs.4,136,713,393 or 74% on acquisition of assets against the approved budget of Kshs.5,590,878,578 resulting to underutilization of Kshs.1,454,165,185. The schedule provided in support of this item had a balance of Kshs.3, 129,990,135 resulting to un-explained variance of Kshs.1, 006,723,258.

Submision by the Accounting Officer

1. The Accounting Officer submitted that the underutilization of Ksh.1, 454,165,185 was occasioned by the following reasons: shortfall in the exchequer issues received, non-release of funds by the donors and delays in the procurement process due to late approval of the budget. it therefore becomes difficult to procure due to time constraints.
2. With regard to the variance of Kshs.1, 006,723,258 the supporting schedules and the statement have since been reconciled hence addressing the issue of variance.

Committee Observations and Findings

1. **The supporting schedule and the statement have since been reconciled hence addressing the reconciliation of Kshs.1, 006,723,258.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

388.2.3 Transfersto Other GovernmentUnits

The Ministry spent a total of Kshs.9,542,051,154 as transfers to other Government entities during the ear against an approved budget of Kshs.10,198,861,246 resulting to under funding of Kshs.656,810,092 of the budget. It has not been explained why the Ministry retained funds meant for other agencies.

Further, the schedule provided to support this amount added upto Kshs.8, 066,511,717 resulting to an over statement of Kshs.1, 475,539,437.

In addition, an amount of Kshs.22,500,000 was transferred to the Ministry of Foreign Affairs and another Kshs.23,328,000 was transferred to Wildlife Club of Kenya, a private entity without the necessary arrangements on how to account for it. In both instances, the Ministry has not explained the rationale for funding these entities and the accountability for the funds.

In view of the foregoing, the accuracy and propriety of the expenditure of Kshs.16,318,740,45 could not be confirmed.

Submission by the Accounting Officer

The Accounting Officer submitted that the under-spending of Kshs.656, 810,092 was occasioned by non-release of exchequer issues from the National Treasury. Of the approved budget of Kshs15, 083,196,218 only Kshs 13,559,041,646 was received resulting to a shortfall of Kshs. 1,524,154,572.

With regard to over statement of Kshs.1,475,539,437 resulting from the schedule provided to support the amount spent on transfers to other governments, the schedule has since been reconciled to address this over statement.

The amount of Kshs. 22,550,000 transferred to the Ministry of Foreign Affairs was in respect of Wangari Maathai Award Program which had been decided during the 20th Ordinary Session of all Assembly held in Addis Ababa Ethiopia in January 2012.

With regard to an amount of Ksh.23, 328,000 paid to Wildlife Clubs of Kenya, it is worth noting that the Club was acknowledged as a functional government organization/entity as per the presidential circular No.1/208 of May 2008 and Executive Order No. 3/2013 of 2013. Wildlife Clubs of Kenya prepare Financial Statements which provide for the GOK funds and other donors and the returns are available for audit verification.

Committee Observations and Findings

1. **The amount of Kshs. 22,550,000 transferred to the Ministry of Foreign Affairs was in respect of Wangari Maathai Award Program which had been decided during the 20th Ordinary Session of all Assembly held in Addis Ababa Ethiopia in January 2012.**

2. **The amount of Ksh.23, 328,000 paid to Wildlife Clubs of Kenya was based on the fact that it is a functional government organization/entity as per the presidential circular No.1/208 of May 2008 and Executive Order No. 3/2013 of 2013. Wildlife Clubs of Kenya prepare Financial Statements which provide for the GOK funds and other donors and the returns are available for audit verification.**

3. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

389. Pending Bills

Bills amounting to Kshs.420, 576,006 chargeable to both recurrent and development votes for the ministry as at 30 June 2015 were not paid in the year 2014/2015 but were insteadcarriedforwardto2015/2016. Had those bills been paid and expenditure charged, the statement of receipts and payments would have reflected a higher deficit ofKshs.430, 966,872. Failure to settle the 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 have to be charged.

In addition, the list of pending bills availed for audit review didnot have the details of the tender number, contract sum and the pending invoices as required.

Consequently, it has not been possible to ascertain the validity, completeness and accuracy of the pendingbills balance ofKshs.420, 576,006.

Submission by the Accounting Officer

The Accounting Officer submitted that the pending bills were occasioned by non-release of the exchequer issue by the National Treasury. Inadequate budgetary provision compelled the Ministry to carry forward the bills to subsequent financial years which negatively impact on our suppliers. These Pending Bills were also as a result of rationalized budgetary provisions. The list with details of the tender number, contract sum and the pending invoices have since been availed.

Committee Observations and Findings

1. **The pending bills were occasioned by non-release of the exchequer issue by the National Treasury and inadequate budgetary provision compelled the Ministry to carry forward the bills to subsequent financial years, which negatively affected our suppliers.**
2. **The list of pending bills with details of the tender number, contract sum and the pending invoices have since been availed for audit verification.**
3. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

390. Cash andCash Equivalents

The statement of financial assets reflects cash and cash equivalents of Kshs.2, 244,295 as at 30 June2015. However, examination of the bank reconciliation statement as at 30 June 2015 revealed the following unexplained reconciling items;

(a) The recurrent cash book reflects payments in the cash book not yet presented in the bank of Kshs.172, 519,369 of which Kshs.567, 451 were stale cheques.

(b) Kshs.1, 961,995 being payments in bank not posted in cashbook .It has not been explained how payments went through in the bank without firstbeingrecordedin thecashbook.

(c) Receipts in cash book not yet recorded in the bank of Kshs.152,642,501include Kshs.150,000,000 being exchequer issues posted in cash book but not recorded inthebank.It has not been explained as to how the exchequer issuewas capturedinthecash book beforeitcouldreflectinbankaccount.

(d) Receipt inbank not recorded in cash book amounting to Kshs.223,673. Managementhasnotexplainedwhatthosereceiptsareandwhytheyhavenot been postedtothecash book.

Inthecircumstances,theaccuracyandcompletenessofthecashandcashequivalentsbalanceofKshs.2,244,295as at30June2015could notbeconfirmed.

Submission by the Accounting Officer

The Accounting Officer submitted thatwith regard to Recurrent Cash Book where there are payments in the cash book not yet presented in the bank of Ksh.172,519,369 of which Ksh.567,451 were stale cheques, The payments have since been cleared as reflected in the subsequent Bank Reconciliation Statements.

The amount of Ksh.1,961,995 relating to payments in Bank not posted in Cash Book has since been posted in the Cash Book accordingly.

With regard to receipts in Cash Book not yet recorded in the Bank of Ksh.152,642,501 which include Ksh.150,000,000 being exchequer issue posted on the Cash Book but not recorded in the Bank Statement, it is important to point out that the amount of Ksh.150,000,000 was an exchequer received on 30th June 2015 but reflected on the Bank Statement on 1st July 2015 while Ksh.2,600,000 was A.I.A collected by Metrological Department at the closure of the Financial Year and reflected in the Bank at the beginning of the following Financial Year. The balance of Ksh.42,501 was a Cash Book undercast which has since been rectified.

On the Statement reflecting an amount of Ksh.223,673 as receipts in the Cash Book not recorded in the bank, these were payments made by the Ministry but were not cleared by the bank. The correct bank account details have since been established and the same cleared accordingly.

The Ministry has now strengthened the bank reconciliation section and is now doing bank reconciliation through IFMIS.

Committee Observations and Findings

1. **With regard to receipts in Cash Book not yet recorded in the Bank of Ksh.152,642,501 which include Ksh.150,000,000 being exchequer issue posted on the Cash Book but not recorded in the Bank Statement, it is important to point out that the amount of Ksh.150,000,000 was an exchequer received on 30th June 2015 but reflected on the Bank Statement on 1st July 2015 while Ksh.2,600,000 was A.I.A collected by Metrological Department at the closure of the Financial Year and reflected in the Bank at the beginning of the following Financial Year. The balance of Ksh.42,501 was a Cash Book undercast which has since been rectified.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

391. DepositsAccount

The Ministry reflects a deposits account of Kshs.65,972,866 as liability as at 30th June 2015 which had not been supported with a corresponding asset and a list of the beneficiaries of the deposits account was not availed for audit verification.

Further, the ministry did not maintain a separate account for the deposits as required under Government financial regulations.

As a result, the accuracy and completeness of the deposit balance of Kshs.65,972,866 could not be confirmed.

Submission by the Accounting Officer

The Accounting Officer submitted that the amount was made of clearance amount of 1,400.00 and deposit totaling to Ksh.65,971,466.00. The analysis has since been availed for audit verification.

The Ministry maintains a separate account for the deposits as required under government financial regulations.

Committee Observations and Findings

1. **The analysis of a correspondingassetand a listof thebeneficiaries ofthedeposits accounttotaling to Ksh.65,971,466.0was availedfor auditverification.**
2. **The Ministry maintains a separate account for the deposits as required under government financial regulations.**
3. **The matter was marked as resolved.**

Committee Recommendation

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

392. Acquisition of Non-financialAssets

The acquisition of non-financial assets balance of Kshs.4,136,713,393 as at 30th June 2015 include Kshs.341,631,075 for research, studies, project preparation design and supervision of which Kshs.27,145,395 do not relate to the item.

In the circumstances, the accuracy, validity and completeness of acquisition of non- financial assets balance of Kshs.4,136,713,393 as at 30th June 2015 could not be ascertained.

Submission by the Accounting Officer

The Accounting Officer submitted that the Ministry has put strict measures in place to ensure that expenditures are charged to the relevant heads and items. The expenditure charged was complementary and related to research, studies and project design.

Committee Observations and Findings

The explanation by the Accounting Officer that the Ministry has put strict measures in place to ensure that expenditures related to acquisition of non-financial assets balance of Kshs.4,136,713,393 are charged to the relevant heads and items and the expenditure of Kshs.27,145,395 charged was complementary and related to research, studies and project design was not satisfying as there was no evidence tabled to support the submission.

Committee Recommendations

The Accounting Officer should avail to the Auditor General evidence that the Ministry has put strict measures in place to ensure that expenditures related to acquisitionofnon-financialassetsare charged to the relevant heads and items and the expenditure of Kshs.27,145,395 charged was complementary and related to research, studies and project design.

393. FinancialPerformance

The State Department of Evironment and Natural Resources prepares its accounts using IPSAS cash accounting which implies that expenditure should not exceed receipts. However, reflected in the statement of receipts and payment is a deficit of Kshs.10,390,866 (2014: Kshs.833,138,857) as at 30 June 2015. Further, the Department has an overall negative financial position of Kshs.59,458,811 as at 30th June 2015. This has partly been brought about by the Department having wrong opening balances. It is not clear why the Department has a deficit where as there was huge under spending both in recurrent and development votes.

Consequently, there liability of the financial statements and the financial performance of the Department could not be ascertained as at 30th June 2015.

Submission by the Accounting Officer

The Accounting Officer submitted thatthe Ministry has since then ensured that reliable Financial Statements are prepared and submitted for audit purpose. That since then this Ministry's financial statements has not reported any deficit. The Ministry is working with the National Treasury Financial Reporting Unit (FRU) to develop capacity of its staff to enable them prepare financial statements that reflect true and fair view of our transactions.

Committee Observations and Findings

1. **The Ministry as rectified the financial statements and has not reported any deficit in subsequent financial years.**
2. **The Ministry is working with the National Treasury Financial Reporting Unit (FRU) to develop capacity of its staff to enable them prepare financial statements that reflect true and fair view of our transactions.**
3. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

394. FixedAsset Register

The fixed asset register was not provided for audit review yet the Department has various buildings across the country as well as vehicles and other equipment of undetermined value. In absence of the register, it was not possible to confirm that the Department's financial position is fairly stated.

Submission by the Accounting Officer

The Accounting Officer submitted that the asset register has since been availed to the auditors and the entity is in talks with the National Treasury with a view to agree on the guidelines on the valuation of the said assets to make them compliant with the IPSAS requirements.

Committee Observations and Findings

The asset register has since been availed to the auditors and the entity is in talks with the National Treasury with a view to agree on the guidelines on the valuation of the said assets to make them compliant with the IPSAS requirements.

Committee Recommendations

1. **Within three months of the adoption of this report, the Accounting Officer and the National Treasury must develop guidelines on the valuation of the said assets to make them compliant with the IPSAS requirements.**
2. **Within three months of the adoption of this report, the Accounting must submit fixedassetregister wasfor auditreview.**
3. **The Cabinet Secretary should impose sanctions on the entity for failure to provide accurateinformationtothe Auditor General regardingfinancial matters and specifically impose additional requirements to be adhered to by the entity in preparation of the fixed asset register pursuant to the provisions of section 204 (1)(c) and(2)(a) of the Public Finance Management Act, 2012.**

395. Irregular Procurements

395.1 Sub-contracting of Supply, Delivery, Installation and Commissioning of Integrated Metrological Data Collection System

The Ministry awarded a contract of Kshs.169, 500,054 to New Edge Solutions Ltd on 2 November 2012. However, the contract was signed between the two parties on 18 October 2014 which was two years after the award.

Further, the contractor, without the approval of the contractee sub-contracted the whole contract to Ms Klass Ltd contrary to the Public Procurement and Disposal Act, 2005. No evidence of delivery of services has been provided for audit review and it appears Ms Klass Ltd was paid based on the 2012 tender documents.

In the circumstance, the expenditure of Kshs.169, 500,054 is irregular charge to public funds as no value for money appears to have been obtained as at 30 June 2015.

As of the date of this report, the project has stalled casting doubt as to whether this was regular charge to Public funds.

The Ministry appears to have lost the Kshs.14, 548,499 spent on the stalled project.

Submission by Accounting Officer

The accounting officer submitted that the ministry awarded a contract of Kshs.169, 500,054 to Ms. New Edge Solutions on 2nd November 2012. He further admitted that the contract was signed on 18th October 2014 which was two years after the award. The main contractor partly sub-contracted the works to M/S Klass Limited. The delay in signing the contract was as a result of unplanned budget cuts owing to austerity measures and Exchequer challenges which had been occasioned by non-payment of pending bills which are subsequently carried forward and therefore affecting the procurement for succeeding years.

On the issue of sub-contracting, Section (15) of the Standard Tender Document on Subcontracts allows the tenderer to notify the procuring entity in writing of all subcontracts awarded under the contract if not already specified in the tender, such notification, in the original tender or later shall not relieve the tenderer from any liability or obligation under contract.This clause clearly allows for subcontracting upon official consent which was awarded by the Ministerial Tender Committee (MTC). The department on receipt of the request from the contractor for subcontracting the works was guided by the above clauses.

There was official communication from the contractor informing the subcontracting and that there were MTC minutes authorizing and subsequent approval of contracting. The contractor only issued instruction for subcontracting 50 percent of the works and payments to the local manufacturer who is the authorized agent. It is also clearly indicated that the contractor remains liable for the execution and obligation of this contract. The main contractor is still liable to Kenya Meteorological Department.

At the time of the audit the Ministry had only paid Kshs.50 Million being part of the 50 percent provided in the contract. The balance of Kshs. 34 Million which is part of the 50 percent was paid in October 2016 which brings total payment to-date to Kshs.84 Million. The current status is that the software has been developed, the hardware has been delivered and implementation is in progress.

Committee Observations and Findings

1. **The explanation of the Accounting Officer that the main contractor partly sub-contracted 50 percent of the works and payments to the local manufacturer, to M/S Klass Limited, who is the authorized agent and the delay in signing the contract was as a result of unplanned budget cuts owing to austerity measures and exchequer challenges which had been occasioned by non-payment of pending bills which were subsequently carried forward and therefore affecting the procurement for succeeding years was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

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.

395.2 Irregular Procurement and Payment -Construction of Embu County Office

The Metrological Department contracted M/S Cofard Construction (K) Ltd to construct a model County Office in Embu in 2009 at a contract sum of Kshs.11, 532,396 by floating a quotation contrary to the Public Procurement and Disposal Act, 2005. The contract sum was revised upwards to Kshs.14, 548,499 without following the procedures. No contract was prepared and signed between the two parties in accordance with Public

Submission by Accounting Officer

KMD contracted Ms. Cofard Construction Company (K) Limited to construct a model County office in Embu at a contract sum of Kshs.11, 532,396. He admitted that the contract sum was revised upwards to Kshs.14, 548,499. The Procurement was tendered for by the Ministry of Public Works through Restricted Tendering for pre-qualified contractors and not by request for Quotations. A contract between KMD and the contractor was raised and signed by both parties. The contract was revised upwards owing to variations to works that were approved by Ministry of Public Works. The variation was within the allowed provisions in the Public Procurement and Asset Disposal Act.The delay in completion of the project was as a result of limited budgetary allocation of funds to the relevant vote head. The project has since been completed and the building fully occupied.

Committee Observations and Findings

1. **The explanation of the Accounting Officer that the Procurement was tendered for by the Ministry of Public Works through restricted tendering for pre-qualified contractors and not by request for Quotations was insufficient as there was no justification provided using restricted tendering to construct a model County office in Embu at a contract sum of Kshs.11, 532,396 pursuant to section 73 of the Public Procurement and Disposal Act, 2005.**

Committee Recommendation

The EACC and DCI should, within three months after adoption of this report, investigate the propriety of using restricted tendering to construct a model County office in Embu at a contract sum of Kshs.11, 532,396 by the State department of Environment and Natural Resources during the financial year 2014/2015.

395.3 Tender to Construct Two Observatory Units

The Ministry awarded a tender to construct two observatory units to Signature Contractors and General Supplies at a tender sum of Kshs.6, 771,936. However, after two months, the Ministry awarded another similar contract to Venera Investments at contract sum of Kshs.13,543,872 which is double the amount awarded to the first contract for the same work.

In the circumstances, it has not been possible to ascertain the propriety of the expenditure of Kshs.13, 543,872 and the contract did not fulfill the requirements of the Public Procurement and Disposal Act, 2005.

Submission by Accounting Officer

The Ministry awarded the tender to construct two Observatory units. The tender was awarded to M/s. Signature Contractors General Supplies at a cost of Kshs. 6,771,936.00. The Ministerial Tender Committee minutes awarding the same have been attached for perusal.The Observatory units were constructed for the Institute of Meteorological Training and Research (IMTR). The tendering for the works was done by the Ministry of Works. A report prepared by the Ministry of Works was forwarded to the Ministerial Tender Committee for adjudication***.(Annex 7)***

The two observatory units were completed and are in use and are domiciled at the Kenya Institute of Meteorological, Training and Research (IMTR). The contractor was requested to give an indemnity certificate which was attached to the voucher. The delays in the payment was as a result of due diligence carried out by KMD before processing this outstanding amounts.

Committee observations and findings

1. **The explanation of the Accounting Officer that the Ministry awarded a tender to construct two observatory units to Signature Contractors and General Supplies at a tender sum of Kshs.6, 771,936 per unit and not Vinera Invetsments was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

395.4 Contract for the Supply, Delivery, Installation and Commissioning of Weather Observation System

During the year under review, the Ministry paid Kshs.9, 491,023 to Kenya Auto Electrical Ltd being 50percent payment for the supply, delivery, installation and commissioning of weather observatory systems. The payment was made based on the purported supply and procurement done in 2007. The LPO was dated 2007 while the delivery note was dated 6 October 2008. There was no contract to support the payment and besides there was no evidence regarding the previous payments and delivery. In the circumstances, the validity and propriety of the payment of Kshs.9, 491,023 could not be ascertained.

Submission by Accounting Officer

He admitted that the Ministry paid Kenya Auto Electrical Limited Kshs.9, 491,020.00 for the supply, delivery, installation and commissioning of Airport Weather Observation System. This contract was awarded to M/s Kenya Auto Electrical Limited for the supply, delivery, installation and commissioning of Airport Weather Observation System at contract sum of Kshs.18, 982,040.

This contract was signed between the then Ministry of Transport and the contractor. Kenya Meteorological Department (KMD) was then under the Ministry of Transport, but was later moved to the Ministry of Environment during the government reorganization in the year 2008.This system was installed at the Wilson Airport. During the said period, Ministry of Transport paid the 1st 50 percent payment of Ksh.9, 491,020.00 due to the contractor vide payment cheque No.005099 dated 30/06/2007.

The remaining 50 percent final payment Ksh.9,491,020.00 was not processed on time due to the administrative investigations which were being performed by the then Kenya Anti-Corruption Authority (KACA). The officers took away all the procurement documentation while investigating a case for a project named National Early Warning Systems (NEWSS) which formed part of the security contracts by the then Ministry of Transport.Given that the relevant documents were taken by KACC and coupled with the change of the Department from Ministry of Transport to Ministry of Environment, it then became complicated to track the payments on this contract. Efforts were made to get more information from the Ministry of Transport but the same was not forthcoming, KMD therefore was hesitant to pay the balance due to the contractor despite repeated reminders until the claim was authenticated.

The Ministry of Transport could only provide the voucher movement register in the accounts section for the same period which revealed that only 50 percent payment was done and the final payment of 50 percent was outstanding. This is when KMD decided to pay the contractor the balance due to them.

Committee observations and findings

1. **The explanation by the Accounting Officer that the KMD established final payment of Ksh.9,491,020.00 was not processed on time due to the administrative investigations which were being performed by the then Kenya Anti-Corruption Authority (KACA) during which officers took away all the procurement documentation while investigating a case for a project named National Early Warning Systems (NEWSS) which formed part of the security contracts by the then Ministry of Transport; hence relied on the voucher movement register to effect payment was reasonable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Investigative Agencies that seize government documents while undertaking investigations must always avail copies of the said documents to the Auditor General. Any officer who fails to comply should be investigated and prosecuted for failure to provide any information in the officer's possession, or under the officer's control pursuant to section 197(2) (k) of the Public Finance Management Act, 2012;

395.5 Irregular Fencing Project Payments-Kenya Meteorological Service Stations

The State Department of Environment identified some contractors through floating of quotations for the construction of fencing projects at various Kenya Metrological Service stations at a contract sum of Kshs.27, 760,162 contrary to the Public Procurement and Disposal Act, 2005 where contracts exceeding Kshs.4 million should go through open public tendering. Further, the payments to the contractors did not have Electronic Tax Register (ETR) receipts attached to confirm that the tax due to the Government was paid.

In addition, no engineers report(s) or certificates of completion of work were provided for audit verification to confirm that the works were done to the expected standards and as per bills of quantities before payments were made.

In the circumstances, it has not been possible to ascertain the propriety of the expenditure of Kshs.27, 760,162.216.

Submission by Accounting Officer

He admitted that fencing projects at various Meteorological Stations was undertaken by the Ministry at a total cost of Kshs 27,760,162.00. The stations fenced included Moyale, Marsabit, Kericho, Nganyi, Eldoret, Makindu, Matungu and Kakamega. This was done through restricted Tender and not through request for quotations. The work was awarded by Public Works through restricted tender to various locally based contractors. The evaluation and supervision of the work was done by Ministry of Public Works who also provided the bill of quantities (BQS). Engineer's reports as well as certificates of completion have since been availed for verification.

The VAT is usually deducted at the time of payment and the contractor is supposed to submit any arrears after payment to KRA. That's why we require a tax compliance certificate at the time of evaluation of the bids.ETR receipts were previously not being attached during the submission of invoice or certificate for payment but now we have implemented it.

Committee observations and findings

1. **The explanation of the Accounting Officer that the Procurement was tendered for by the Ministry of Public Works through restricted tendering for pre-qualified contractors and not by request for Quotations was insufficient as there was no justification provided using restricted tendering for** fencing projects at various

Meteorological Stations **at a contract sum of** Kshs 27,760,162.00 **pursuant to section 73 of the Public Procurement and Disposal Act, 2005.**

2. **The Accounting Officer during the period under review was Dr. Richard Lesiyampe.**
3. **The Accounting Officer at the Ministry of Public Works during the period under review was**
4. **The matter remains unresolved.**

Committee Recommendations

1. **The EACC and DCI should, within three months after the adoption of this report, investigate the propriety of using restricted tendering for fencing projects at various Meteorological Stations at a contract sum of Kshs 27,760,162.00 by the State department of Environment and Natural Resources during the financial year 2014/2015 with a view to prosecuting any person found culpable.**

395.6 Payments towards the Construction of Buildings and Related Works

The State Department of Environment awarded to M/S Gracan Construction Ltd a contract to construct proposed extension and re-roofing of Administration block at Kenya Metrological Department (KMD) at a contract sum of Kshs.55, 414,756. The contract appears to have been awarded in 2009/2010 but payments were being made in the current financial year. The cause for the delay was not documented anywhere. The contract sum and other contract conditions could not be established as there were no documents availed for audit verification. ETR receipts were not attached to the payments, casting doubt whether the tax due was remitted. Inspection and acceptance committee reports were not produced for audit confirmation.

In the circumstances, it has not been possible to ascertain the legality and propriety of the expenditure of Kshs.55, 414,756.

Submission by Accounting Officer

The accounting officer admitted that the State Department of Environment awarded a contract to M/s. Gracan Construction Ltd to construct proposed extension and re-roofing of Administration Block at KMD at a contract sum of Kshs.55, 414,756.00. He further admitted that the contract was awarded in the year 2009/2010 but payments were made in financial year under review 2014/2015.

He submitted that the roof for the administrative block at KMD was dilapidated and was to be replaced together with some major refurbishing. The Ministry signed a contract for the construction of the proposed extension and re-roofing of Administration Block at a contract sum of Kshs.43, 486,857.40.

However, it was later realized that an additional floor should be put up. Due to changes in the scope of works as advised by Ministry of Public Works, variation of the initial contract was done resulting in contract sum of Kshs.55, 414,756.00.

He reported that the delay in payment was occasioned by budgetary constraints owing to changes in the initial contract, where additional works were added that had not been originally captured. The extra works necessitated variation of contract.

The Department sought Contract variation from the MTC due to changes in the scopes of work as advised by the Ministry of Public Works.

The VAT was automatically retained at source. Certificates of practical completion were signed by Ministry of Public Works.

Committee Observations and Findings

1. **The explanation by the Accounting Officer and documents tabled in support of the justification that due to changes in the scope of works as advised by Ministry of Public Works, variation of the initial contract was done resulting in contract sum of Kshs. 55, 414,756.00 was reasonable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

395.7 Unverified Supplies of Seedlings

During the year under review, the State Department of Environment contracted various suppliers to supply seedlings to various destinations at a contract sum of Kshs.34, 925,500.

The delivery of the seedlings could not be confirmed as delivery notes were not signed and stamped or no goods received notes were issued. This casts doubt as to the existence and execution of the contracts.

In the circumstances, it has not been possible to ascertain the propriety of the expenditure of Kshs.34, 925,500.

Submission by Accounting Officer

He admitted that during the year under review, the State Department of Environment contracted various suppliers to supply seedlings to various destinations at a contract sum of Kshs.34, 925,500. He further admitted that the delivery notes pertaining to the supplies had neither been signed, stamped, nor goods received notes issued as at the time of audit.

He submitted that the delivery of seedlings in the various destinations were thereafter verified, the delivery notes signed, stamped and goods receipt notes issued appropriately. The delay was regrettable.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that at the time of audit the verification of delivery of seedlings in the various destinations had not been undertaken, therefore delivery notes were signed, stamped and goods receipt notes issued thereafter was not satisfying.**
2. **The matter remains unresolved.**

Committee Recommendation

The EACC and DCI, should within three months after the adoption of this report, investigate the propriety of contracts to various suppliers to supply seedlings to various destinations at a contract sum of Kshs.34, 925,500 by the State department of Environment and Natural Resources during the financial year 2014/2015 with a view to prosecuting any person found culpable.

396. Loss of Government Vehicle

The Ministry vehicle registration number GKA 152Q (though assigned civilian number plate KAY 953F) and attached to a former Principal Secretary valued at Kshs.5,460,000 was reported lost at Mlolongo area in Machakos County under unclear circumstances on 24 August 2013 at around 9.00 pm while being driven by an unauthorized person. The vehicle was not reported lost as per the Government regulations.

Consequently, the Ministry appears to have lost Kshs.5, 460,000 being the cost of the vehicle as no recovery of the amount had been instituted as at 30 June 2015.

Submission by Accounting Officer

He admitted that State Department vehicle registration number GK A152Q (though assigned civilian number plate KAY 953F) and attached to the Principal Secretary valued at Kshs.5,460,00 was reported lost at Mlolongo area in Machakos County under unclear circumstances on 24th August, 2013 at around 9.00pm.

He reported that the matter was reported by the driver Mr Boniface Mwaura Kimani as a car-jacking incident at the Kileleshwa Police Station (CR142/64/2013) on 24th August 2013. He also reported the matter to the Principal Secretary through the transport officer. The matter is still under investigation by the Kenya Police Service.

The Ministry has been making efforts to address this matter and ultimately resolve it conclusively**.**

Committee Observations and Findings

The matter is under investigation by the police.

Committee Recommendations

1. **The DCI should expedite these investigations and have the matter concluded within three months after adoption of this report.**
2. **The Accounting Officer should, within three months after adoption of this report, take administrative action against any officer who is adversely mentioned in this incident.**

26.2. STATE DEPARTMENT FOR WATER AND REGIONAL AUTHORITY

FINANCIAL STATEMENTS FOR VOTE 146

Mr. Joseph Irungu, the Accounting Officer for Vote 146, The State Department for Water and Regional Authority; accompanied Eng. S.K Kogi; Chief Engineer, Mr. Joel N. Onchwati; Head of Finance, Ms. Caroline Mugwe; Director HRMD, Ms. Agnes Waweru; Assist. Accountant General, Mr. Joseph K. Keter; Secretary Administration, Mr. Kihara Ndung'u; Assist. Secretary, Eng. Sao Alima; Water Secretary, Ms. Nasma Cheboi; Chief Accountant, Mr. Dennis O. Ouko; SCMO, Mr. Daniel Kihara; Deputy CFO, Mr. Paul Asele; Chief Economist, Mr. Musembi Munyao; Program Coordinator TMWDP, Mr. Wycliffe Ojukwu; Principal Accountant, Eng. Simon G. Mwangi; PM – Kenya Water Project appeared before the Committee on 16th August 2018 and 21st September 2018, to adduce evidence on the audited Financial Statements of Vote 146 the State Department for Water and Regional Authority for the Financial Year 2014/2015. The minutes of the committee's Sittings and the submissions tabled by the accounting officer are annexed to this report.

Basis for Adverse Opinion

401. Budgetary Control and Performance

401.1 Exchequer Release

The exchequer release of Kshs. 17,496,332,836 as at 30 June 2015 was short of the approved budget figure of Kshs. 21,134,920,067 leading to an unexplained variance of Kshs. 3,638,587,231 as listed below:

No.	Item	Budget (Kshs.)	Actual (Kshs.)	Variance (Kshs.)
1	Recurrent	2,053,792,790	2,053,792,790	0
2	Development	19,081,127,277	15,442,540,046	3,638,587,231
	Sub Total	21,134,920,067	17,496,332,836	638,587,231 3
3	A-I-A Recurrent	2,137,758,239	100,776	2,137,657,463
4	A-I-A Development	14,423,756,977	9,534,267,277	4,889,489,700
5	Sub Total	16,561,515,216	9,534,368,053	7,027,147,163
	Grand Total	37,696,435,283	27,030,700,889	665,734,394

The exchequer shortfall negatively impacts on the planned and budgeted development projects for the year ended 30 June 2015.

Submission by Accounting Officer

The State Department for Water and Regional Authority had an approved budget of Kshs. 21,134,920,067 in the FY 2014/2015 out of which Kshs. 17,496,332,836 was received from the National Treasury resulting to an under expenditure of Kshs, 3,638,587,231.

The under expenditure is due to:

a) Delayed submission of exchequer replenishment request from the implementing SAGAs within the ministry.

b) Lengthy procurement process for goods and services in conformity to the requirements of various donors

c) Lengthy processing of funds from the special project accounts to the respective projects accounts in commercial banks.

d) Delayed budgetary allocation where funds are uploaded in IFMIS too late to the closure of the Financial Year.

Committee Observation and Finding

The State Department for Water and Regional Authority had an approved budget of Kshs. 21,134,920,067 in the FY 2014/2015 out of which Kshs. 17,496,332,836 was received from the National Treasury resulting to an under expenditure of Kshs, 3,638,587,231 (approximately 17.22 percent);

Committee Recommendations

1. **The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report put in place a framework to address the budget execution problem of persistent development budget exchequer release shortfalls that adversely affect implementation of development programmes and projects; and**
2. **The Integrated Financial Management Information Systems (IFMIS) has persistently been reported by the Accounting Officers as a hindrance to the budget execution and has also been used to siphon public funds. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS audit and reconfiguration plan that support timely budget execution and seal loopholes for misuse of public funds.**

401.1.1 Recurrent and Development Grants

The Department received Kshs.2, 053,752,790 recurrent grants as per the approved budget estimate. Further, the Department received Kshs.15, 442,540,046 as exchequer releases out of the budgeted amount of Kshs.19, 081,127,277 resulting to unexplained variance of Kshs.3, 638,587,231 for the development grants.

Submission by Accounting Officer

The accounting officer admitted that it was true that the department received Kshs. 2,053,752,790 as recurrent grants as per the approved budget estimate, further the department received Ksh.15, 42,540,046 as exchequer release out of the budgeted amount of Ksh. 19,081,127,277 resulting to unexplained variance of Ksh. 3,638,587,231 for the development grants.

Committee Observation and Finding

The State Department spent 100 percent of its approved recurrent budget while it only spent Ksh. 15,442,540,046 out of the approved development budget of Ksh. 15,442,540,046 in the FY 2014/2015 resulting into the reported under-expenditure of Kshs, 3,638,587,231.

Committee Recommendations

The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report put in place a framework to address the budget execution problem of persistent development budget exchequer release shortfalls that adversely affect implementation of development programmes and projects.

401.1.2 Appropriations-In-Aid Recurrent and Development Grants

The Department realized Kshs.100, 776 as Appropriation in Aid recurrent grants out of the budgeted amount of Kshs.2, 137,758,239 resulting to unexplained variance of Kshs.2, 137,657,463. It was noted that the Department received Kshs. 9,534,267,277 developments A-I-A out of the budgeted amount of Kshs. 14,423,756,977 resulting to unexplained variance of 220 Kshs. 4,889,989,700. The schedule availed in support of this amount added up to Kshs. 7,775,402,966 against the figure in the financial statements of Kshs. 9,534,267,277 resulting to an unexplained variance of Kshs. 1,758,864,311. Further, management did not provide an analysis of the donations that make up that figure. It was noted that funds from various development partners amounting to Kshs.237, 912,343 were not recorded in the Department's books. In addition, loans amounting to Kshs.58, 097,447 received in form of direct payments were not recorded in IFMIS system thus not forming part of the ledger transactions. Consequently, the A-I-A has not been recorded and accounted for properly.

Submission by Accounting Officer

(a) Appropriation-In -Aid Recurrent

(b) It was true that they realized Kshs. 100,776 as Appropriation in Aid recurrent grants out of the budgeted amount of Kshs. 2,137,758,239 resulting to an under collection of Kshs. 2,137,657,463. This was occasioned by non-remittance of revenue by the Water Service Providers to the Water Services Boards in line with the Water Act 2002.The said Water Service Providers which are now under the County Governments with the onset of devolution, have continually defaulted to remit the Appropriation in Aid over the years resulting to accumulation of unpaid revenue. With the enactment of the Water Act 2016 this requirement has been repealed. The Water Boards are however making efforts to collect this revenue that is in arrears.

(b) Appropriation-In -Aid Development

It was also true that the ministry received Ksh. 9,534,267,272 development appropriation –in -aid out of the budgeted Kshs. 14,423,756,977 resulting to an under expenditure of Kshs. 4,889,989,700. The A.I.A is only realized after work has been done and payments processed and paid through the National Treasury.

The under **e**xpenditure was due to:

a) Lengthy procurement process for goods and services in conformity to the requirements of various donors

b) Lengthy funds flow processes where by the certificates have to be processed at the project and SAGAs then submitted to the ministry for further processing. The certificates are then submitted to the National Treasury for their internal processing and finally submitted to the donor in their country of residence for verification and later making payments to the respective contractors or suppliers. Each of the processes takes a number of days therefore leading to low absorption which results to under expenditure.

c) Delayed budgetary allocation where funds are uploaded in IFMIS too late to the closure of the FY 2014/2015.

The accounting officer admitted that:

It was also true that the schedule availed in support of the amount of Kshs. 9,534,267,277 added up to Kshs. 7,775,402,966 in the financial statements resulting to an unexplained variance of Kshs. 1,758,864,311. The analysis has since been made and provided to the Auditor.

It was true that loans amounting to Kshs. 237,912,343 were not received in the department's books, this was occasioned by various payments that were erroneously included in the IFMIS schedule submitted for audit, since they had not been paid they were later cancelled out. It was also true that various funds amounting to Kshs. 58,097,447 were not recorded in the Department's books. This was occasioned by donor directly disbursing funds to the projects without passing through the Ministry. The Ministry has written to the Principal Secretary, National Treasury to correct this anomaly.

Committee Observations and Findings

1. The State Department's approved A-I-A of Kshs. 2,137,758,239 only realized actual A-I-A collection of a paltry Kshs. 100,776 representing A-I-A under collection of Ksh. 2,137,657,463 in the FY;
2. The approved budgeted development A-I-A of Ksh. 14,423,756,977 realized actual figure of Ksh. 9,534,267,277 representing a development A-I-A under collection of Ksh. 4,889,489,700;
3. The schedule availed to the Auditor-General to support of the amount of development A-I-A of Kshs. 9,534,267,277 added up to Kshs. 7,775,402,966 in the financial statements resulting to variance of Kshs. 1,758,864,311which was not explained at the time of audit; and
4. The financial statements presented by the Accounting Officer were not up to date. Loans amounting to Kshs. 237,912,343 were not received in the State Department's books and various funds amounting to Kshs. 58,097,447 were not recorded in the State Department's books.

Committee Recommendations

1. The Accounting Officer responsible for the State Department should set realistic recurrent and development A-I-A target in the financial year and work towards achieving the set targets to avoid A-I-A recurrent underperformance which hampers budget execution and service delivery;
2. The Accounting Officer should ensure that the entity keeps complete financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

401.1.3 Proceeds from Domestic and Foreign Grants

The proceed from domestic and foreign grants balance of Kshs. 1,700,766,404 as at 30 June 2015 did not have analysis of the project and the donor entity. During the year under review, the Department had a budget of Kshs.3, 022,250,000 but the actual receipts were Kshs.1, 700,766.405 resulting to an unexplained shortfall of Kshs.1, 321,483,595. The huge shortfall will impact negatively on planned and budgeted programs and services.

Submissions by Accounting Officer

The accounting officer admitted that it was true that they had a budget of Kshs. 3,022,250,000 under proceeds from domestic and foreign grants but actual receipts were Kshs. 1,700,766,405 resulting to a shortfall of Kshs. 1,321,483,595.00

The Shortfall was occasioned by delay in project implementation due to:

i) Land compensation procedures and processing where allocation is not adequate (budget)

ii) Delay in procurement of contracts due to lengthy procurement procedures

iii) Delayed budgetary allocation where budgets are approved late in the financial year.

It was also true that an analysis of grants and donor entity amounting to Kshs.1, 700,766,404 was not provided. This has since been provided to the auditors for review.

Committee Observations and Findings

1. **There was no analysis of projects and donor entities for the proceed from domestic and foreign grants balance of Kshs. 1,700,766,404 as at 30 June 2015;**
2. **The State Department had a budget of Kshs. 3,022,250,000 for proceeds from domestic and foreign grants but the actual domestic and foreign received were Kshs.1, 700,766.405 resulting to an unexplained shortfall of Kshs. 1,321,483,595 in the financial year.**

Committee Recommendations

1. **The Accounting Officer should ensure that the entity keeps complete financial and accounting records including analysis that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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; and**
2. **The Accounting Officer responsible for the State Department should set realistic budget for proceeds of domestic and foreign grants in the financial year and work towards achieving the set targets to avoid underperformance which hampers budget execution and service delivery**

401.2 Expenditure Budget Analysis

The comparison for budget and actual amount on the expenditure for the Department reflects an overall under expenditure of Kshs. 11,276,790,634 as listed below;

No.	Item	Budget (Kshs.)	Actual (Kshs)	Variance (Kshs)
1	Use of goods and services	1 571,417,623	495,491,802	75,925,820
2	Transfer to Other Gov't Units	5,421,116,017	3,082,760,703	2,338,355,313
3	3 Other Grants and Transfers	4,450,000	3,445,610	1,004,390
4	Acquisitions of nonfinancial Assets	31,099,296254,	22,237,791, 143	8,861,505,111
	Total Over Expenditure	**37,696,435,283**	**26,441,927,956**	**11,276,790,634**

The huge under expenditure negatively impacts on the planned Department's programs and services.

Submissions by Accounting Officer

The accounting officer admitted that it was true that they had an overall under expenditure of Ksh. 11,276,790,634, and the under-expenditure was as a result of:

a) Delayed submission of exchequer replenishment request from the implementing SAGAs within the ministry.

b) Lengthy procurement process for goods and services in conformity to the requirements of various donors

c) Lengthy processing of funds from the special project accounts to the respective projects accounts in commercial banks.

d) Delayed budgetary allocation where funds are uploaded in IFMIS too late to the closure of the Financial Year.

Committee Observation and Finding

The State Department for Water and Regional Authority had a total approved budget of Kshs. 37,696,435,283 in the FY 2014/2015 while the actual expenditure was Kshs. 26,441,927,956 resulting into an overall under expenditure of Kshs. 11,276,790,634

Committee Recommendations

1. **The Cabinet Secretary for the National Treasury should within three months (3) of adoption of this report put in place a framework to address the budget execution problem of persistent budget exchequer release shortfalls that adversely affect implementation of development programmes and projects; and**
2. **The Integrated Financial Management Information Systems (IFMIS) has persistently been reported by the Accounting Officers as a hindrance to the budget execution and has also been used to siphon public funds. The Cabinet Secretary for the National Treasury should within three months (3) of adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution and seal loopholes for misuse of public funds.**

401.3 Compensation to Employees

401.3.1 Unsupported Compensation to Employees on Unrelated Expenses

The Department budgeted to spend Kshs. 600,155,389 on compensation to employees during the financial year. The actual expenditure was Kshs. 622,438,698 resulting to an unexplained over expenditure of Kshs. 22,283,309 However, The financial statement figure of Kshs. 622,438,698 is at variance with the general ledger balance of Kshs. 584,835,585 resulting to an unreconciled difference of Kshs. 37,603,113. 221. The Department paid Kshs.6, 319,747 as leave commutation to 345 members of staff who had already applied for leave and were paid leave allowance. This amounts to double benefit and is contrary to Government regulations. Further, an amount of Kshs. 99, 994,394 paid as salaries to the Department staff outside the payroll was not supported with relevant documents. In addition, included in the above figure for employee compensation of Kshs. 622, 438,698 is an unrelated expenditure amounting to Kshs. 40,537,700.

Submission by Accounting Officer

The accounting officer responded by noting that the original budget was Kshs. 650,155,386 which was revised downwards by Kshs. 50,000,000, and by the time the supplementary budget was done some of these funds had already been spent resulting to an over expenditure of Kshs. 22,283,309.

The variance of Kshs. 37,603,113 between the financial statements balance of Kshs. 622,438,698 and the general ledger balance of Kshs. 584,835,585 was as a result of miss-posting in the IFMIS ledger which was later corrected to read Kshs. 622,438,698.

The State Department paid Kshs.6, 319,747 as leave commutation to 345 staff members who applied for leave but did not proceed on leave due to exigencies of duty. They were also paid leave allowance for the year since leave allowance is an entitlement paid once in a year in accordance with section 'C' 11 of Human Resource Policies and Procedures Manual for the Public Service of May, 2016. This did not result in double payment because commutation and payment of leave days is compensation for the days that an officer did not proceed on leave. Further an expenditure amounting to Kshs. 99,994,394 referred to as unsupported expenditure was actually salaries and allowances for the month of April and June 2015 which were amounting to Kshs. 95,695,457 and salary vouchers paid outside the payroll amounting to Ksh. 4,243,610.55.

He further noted that it was true that there was unrelated expenditure amounting to Kshs. 40,537,700. This anomaly was as a result of miss-posting in the IFMIS General Ledger. This has since been corrected and posted in the relevant accounting code.

Committee Observations and Findings

1. **The State's Department approved budget for the FY of Kshs. 650,155,386 was revised downwards by Kshs. 50,000,000, through a supplementary appropriation procedure and this affected the its operations resulting to an over expenditure of Kshs. 22,283,309 in the financial year;**
2. **The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies such as miss-posting in the IFMIS General Ledger; and**
3. **The State Department incurred an expenditure amounting to Kshs. 99,994,394 purportedly for salaries and allowances for the month of April and June 2015 which**

were amounting to Kshs. 95,695,457 and salary vouchers paid outside the payroll amounting to Ksh. 4,243,610.55. The Accounting Officer did not provide the justification of making salary payment of Ksh. 4,243,610.55 through payment vouchers and not through the IPPD system.

Committee Recommendations

1. **The Cabinet Secretary for the National Treasury should within three (3) of adoption of this report embark on putting in place a Supplementary Budget Appropriation Framework that meets the minimum constitutional threshold as enshrined in Article 223 of the CoK, 2010 and in compliance with the letter and spirit of provisions of Section 44 of the PFM Act 2012 as opposed to the current practice where approved budgets are revised sometimes even within two months at the start or before the close of the financial year;**
2. **The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months (3) of adoption of this report submit to the National Assembly an IFMIS audit and reconfiguration plan that support timely budget execution and seal loopholes for misuse of public money; and**
3. **The EACC should investigate the expenditure amounting to Kshs. 99,994,394 purportedly for payment of salaries and allowances for the month of April and June 2015 which were amounting to Kshs. 95,695,457 and salary vouchers paid outside the payroll amounting to Ksh. 4,243,610.55; and**
4. **The then Accounting Officer should be held accountable for failure to provide the justification of making salary payment of Ksh. 4,243,610.55 through vouchers and not through the IPPD system as required by law.**

401.3.2 Irregular Expenditure on Seconded Employees to NWCPC

The Department seconded 423 members of staff to National Water Conservation and Pipeline Corporation (NWCPC) in various core operations, which include drilling, electro mechanical, land survey and water technicians. Although the Department has explained that the officers were seconded when the Department ceased to implement technical projects attached to the Boards, it is not clear and the Department has not explained why it continues to pay officers who are serving other statutory bodies or why the officers cannot be officially absorbed by the Institution. In the circumstances, it has not been possible to ascertain the completeness, accuracy and propriety of compensation to employee's expenditure of Kshs.622, 438,698.

Submissions by Accounting Officer

The accounting officer responded by stating that the employees deployed to NWCPC were to be absorbed by NWCPC as per the transfer plan and staff deployment guidelines issued by the

Permanent Secretary (P.S) MWI Vide Letter Ref. No. MWR/005A/1/2/41 dated 30th June 2005. During the transition period of one year the Ministry would continue paying them after which they would enter into written contracts of employment with NWCPC according to the terms and conditions of service of the latter.

Over time, there had been reluctance by the Management of NWCPC to heed to various recommendations from the MWI on absorption of the employees as evidenced by a letter Ref. No. MWI/PARAS/10/25A VOL.V/16 dated 17th February 2016. Since the Corporation had been unable to absorb the employees due to budgetary constraints, devolution and unclear organizational structure and staff establishment the corporation redeployed the employees back to the ministry effective 1st April 2016. Aggrieved employees sought court redress - case No. 515 of 2016 that was determined in 2017 and ordered the employees be redeployed back to the Ministry. The later had no obligation to absorb them into their establishment. The employees are now absorbed in the ministry as per the court order.

Committee Observations and Findings

1. **There was reluctance by the management National Water Conservation and Pipeline Corporation (NWCPC) to heed to various recommendations from the Ministry of Water to absorb the employees that were seconded from the Ministry as evidenced by a letter Ref. No. MWI/PARAS/10/25A VOL.V/16 dated 17th February 2016;**
2. **The employees who were seconded to NWCPC from the Ministry of Water were not absorbed by the NWCPC and were redeployed back to the Ministry after they sought court redress through Case No. 515 of 2016 that was determined in 2017; and**
3. **The Ministry had justified reasons for continued payment of salaries and remunerations to the 423 members of staff who were seconded to National Water Conservation and Pipeline Corporation (NWCPC) in various core operations.**
4. **The Committee marked the matter as resolved.**

401.4 Grants and Transfers to Other Government Units

The State Department had an approved budget of Kshs. 5,421,116,017 on this item against the actual expenditure of Kshs. 3,082,712,904 resulting to an under absorption of Kshs. 2,338,403,113. Further, the manual cash book had a balance of Kshs. 15,376,990,056 against the financial statements balance of Kshs. 3,082,712,904 resulting to an unexplained difference of Kshs. 12,279,461,847. Further, the IFMIS had a balance of Kshs.18, 826,984,234 hence resulting to a variance of Kshs.15, 744,271,330. Included in the transfer to Other Government Units balance of Kshs.3, 082,712,904 as at 30 June 2015 are unrelated expenses amounting to Kshs.76, 598,869 resulting to overstatement by the same amount. An amount of Kshs.224, 600,000 relating to this account was not recorded resulting to understatement of this item by the same amount. In the circumstances, the correctness, completeness and accuracy of the transfer to Other Government Units balance of Kshs.3, 082,712,904 could not be ascertained.

Submissions by Accounting Officer

The accounting officer responded by saying that the transfers to other Government entities in the period were Kshs 3,082,760,704, against an approved budget of Kshs 5,421,116,017 leading to under absorption of Kshs 2,338,403,113. The SAGAs did not requisition for Exchequer on time to enable processing to the National Treasury, this led to the under absorption.

The manual cash book balance as at the end of the financial year was Kshs 2,046,324.85 and not Kshs. 15,376,990,056. The Financial statement balance was Ksh 68,045,127 analyzed as Recurrent Ksh 46,782, Development Kshs, 2,046,325 and Deposit Kshs, 65,751,822. From these balances there was no unexplained difference.

It was true that IFMIS had a balance of Kshs. 18,826,784,234; this is a systemic problem that has been brought to the attention of The National Treasury and will hopefully be sorted out once the Cash Management module of IFMIS is fully functional.

The unrelated expenses of Ksh 76,578,869 and the unrecorded amounts of Ksh 224,600,000 were misposting in the periods that were later corrected.

Committee Observations and Findings

1. **The State Department had an approved budget of Kshs. 5,421,116,017 in the FY 2014/2015 for grants and transfers to other government agencies. However, the actual grants and transfers to other government agencies was Kshs. 3,082,712,904 resulting to non-transfers of Kshs. 2,338,403,113 which was occasioned by delays in requisition for exchequer by the various SAGAs;**
2. **There are persistent systemic challenges with IFMIS record keeping where for instance, in the financial year, the State Department's IFMIS had a balance of Kshs. 18,826,784,234, and unrelated expenses of Ksh 76,578,869 and the unrecorded amounts of Ksh 224,600,000 were misposted in the IFMIS system. These challenges have been continuously brought to the attention of Cabinet Secretary for the National Treasury by the Accounting Officers.**

Committee Recommendations

1. **The Accounting Officers for the Semi-Autonomous Government Agencies (SAGAs) should at all times make their requisition for exchequer in time to enable the Accounting Officer of the parent Ministry/State Department transmit to the National Treasury for processing in line with the provisions of the PFM Act 2012 and PFM (National Government) Regulations 2015; and**

2. **The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS audit and reconfiguration plan that support timely budget execution and seal loophole for siphoning public money;**

401.5 Acquisition of Assets

Included in the acquisition of assets balance of Kshs. 22,237,791,143 as at 30 June 2015 are unrelated expenses relating to disbursements to other agencies of Kshs. 7,598,591, Kshs. 85,980,994, for general office stationeries, Kshs. 11,157,069, for staff allowances and Kshs. 6,374,955 on air travel. No adjustments have been done to rectify this anomaly.

Submissions by Accounting Officer

The accounting officer responded by noting that it was true that included in the acquisition of assets balance of Kshs. 22, 237, 791, 143 as at 30th June 2015 are expenses relating to disbursements to other agencies of Ksh.7, 598,591, Ksh.85, 980,994 for general office stationeries and Ksh.6, 374,955 on air travel. This is because the development projects have a one-line budget from which all expenses are charged. The projects also maintain an analysis of all payments made. The anomaly has since been corrected.

Committee Observations and Findings

1. **There was undue delay by the Accounting Officer to make adjustments in the acquisition of assets balance of Kshs. 22, 237, 791,143 as at 30th June 2015; and**
2. **The acquisition of assets balance included expenses relating to disbursements to other agencies of Ksh.7, 598,591, Ksh.85, 980,994 for general office stationeries and Ksh.6, 374,955 on air travel which was corrected after the audit process.**

Committee Recommendations

The Accounting Officers should ensure that the entities prepare in time and keep up to date financial and accounting records including correct closing balances that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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;

401.6 Other Grants and Transfers

The other grants and transfers balance of Kshs. 3,445,610 as at 30 June 2015 composed of unrelated expenditure in respect of subscription to membership to international organizations. It is therefore not clear why the vote was posted with wrong expenditure and no amendment was effected to correct the anomaly.

Submission by Accounting Officer

The accounting officer noted that it was true that other grants and transfers balance of Ksh. 3,445,610 as at 30th June 2015 composed of unrelated expenditure in respect to subscriptions for memberships to International organization. He also noted that during the year under review the item for subscriptions to international organizations was budgeted under this item of other Grants and transfers

Committee Observations and Findings

The other grants and transfers balance of Ksh. 3,445,610 as at 30th June 2015 included unrelated expenditure in respect to subscriptions for memberships to international organizations. This wrong posting of expenditures was not corrected in time for audit.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months of 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.

402. Presentation of the financial statements

402.1 Accuracy and Completeness of Financial Statements

The financial statements presented for audit did not meet the basic requirements under the International Public Sector Accounting Standards under which they are purportedly prepared. The non-compliances include:

i. Some of the Department’s bank accounts (projects) were not disclosed as required;

ii. Notes to the financial statements do not offer details of the figures in the financial statements;

iii. Included in the financial statements are accounts payable whereas the basis of preparation is cash accounting rather than accrual;

iv. The Department did not have a comprehensive asset register;

v. The comparative figures (opening balance) were the combined closing balances for the Ministry of Environment, Water and Natural Resources rendering the comparison impossible; and

vi. The cash flow statement shows adjustments during the year of Kshs.312, 351,715 that have not been explained. (vii) The financial statements as at 30 June 2015 did not meet the basic requirements as prescribed by the Public Sector Accounting Standards Board vide Treasury Circular No.AG3/088/vol.6 (78) dated 1 July 2014.

Submission by Accounting Officer

The Accounting Officer confirmed that it was true that the Financial Statement presented to Audit did not meet the basic requirement under International Public Sector Accounting Standards (IPSAS) which they are supposed to be prepared. The non-compliance is said to have included: -

(i) Some of the department's bank accounts (projects) which were not disclosed have now been disclosed and included in the financial statements as per the requirements of IPSAS;

(ii) Notes to financial statements which were missing have now been provided;

(iii)It was true that Included in the accounts payables are amount of deposits and retentions whereas the basis of preparation of financial statements is cash and not accrual. The amounts are retentions held on behalf of third parties and will be paid out once the work is completed;

(iv)It was true that the department did not have a comprehensive asset register, a complete asset listing is now available and the department is in the process of preparing a comprehensive asset register, the process had been delayed due to the many changes in the Ministry;

(v) It was true that the comparative figures for the opening balance were the combined closing balances of Ministry of Environment, Water and Natural Resource, this happened because when the Ministry split to Ministry of Water and Regional Authority as the mother Ministry this State Department was left with all the balances;

(vi)It was true that the audited accounts hadthe figure of Kshs. 312,351,715 however, the accounts were later revised in agreement with the auditors and the figure posted to the right account; and

(vii) The financial statement as at 30thJune, 2015 did not conform to the Public Sector Accounts Standards Board (PSASB) template as it was the transition period to the recently introduced International Public Sector Accounting Standards (IPSAS), the financial statements have since been prepared to conform to IPSAS and presented to the external auditors on 2nd May, 2016 for review.

Committee Observations and Findings

1. **The financial statement presented by the entity to Auditor-General during the financial year did not meet the basic requirement under International Public Sector Accounting Standards (IPSAS);**
2. **The financial statements did not comply with the provisions of Section 81(3) of the PFM Act 2012 which require Accounting Officers to prepare the financial statements in a form that complies with the relevant accounting standards**

prescribed and published by the Accounting Standards Board from time to time; and

3. **The Accounting Officer did not disclose some of the bank statements for projects contrary to the provisions of Section 9(1e) which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities; and**
4. **The Accounting Officer failed to prepare in time comprehensive asset register with a complete asset listing as required under Regulation 143 of the PFM (National Government) Regulations 2015.**

Committee Recommendations

1. **The Accounting Officer should ensure that the entity keeps complete financial and accounting records that meets the basic requirement under International Public Sector Accounting Standards (IPSAS) in compliance with the provisions of Section 81(3) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months of 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;**
2. **The erstwhile Accounting Officer for the State Department should be investigated by EACC and DCI and if found culpable charged with:**
   - **i) Failure to disclose some of the bank statements for projects contrary to the provisions of Section 9(1e) which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities; and**
   - **ii) Failure to prepare in time a comprehensive asset register with a complete asset listing as required under Regulation 143 of the PFM (National Government) Regulations 2015.**

402.2 Statement of Cash flows

Under the statement of cash flows, the opening balance of Kshs. 69,355,058 is at variance with the cash at the end of the previous period of Kshs. 913, 355,058. Further, included in the statement is an unexplained item described as adjustment during the year of Kshs. 312, 351,715. The item is used as a balancing figure in the cash flow statement. In view of the differences in the figures, the accuracy and completeness of the financial statements could not be ascertained.

Submission by Accounting Officer

The accounting officer confirmed that it was true that under the statement of cash flows the opening balance of Kshs. 69,355,058 is at a variance with the cash at the end of the previous period of Ksh. 913,355,058. Further included in statement is an unexplained item described as adjustment during the year of Kshs, 312,351,715. This was occasioned by misposting in accounts receivables and payables. The financial statements were later adjusted and presented to the auditor for review.

Committee Observation and Finding

There was no reconciliation of statement of cash flows at the time of audit. The opening balance of Kshs. 69,355,058 was at variance with the cash at the end of the previous period of Kshs. 913, 355,058. Further, included in the statement is an unexplained item described as adjustment during the year of Kshs. 312, 351,715.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records include analysis that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

403. Pending Bills

Bills amounting to Kshs. 134,606,297 chargeable to both recurrent and development votes for the Department for the year under review were not paid in the year but were instead carried forward to 2015/2016 financial year. Had those bills been paid and the expenditure charged, the statement of receipts and payments would have reflected a reduced surplus of Kshs. 454, 166,634 instead of Kshs. 588,772,931 now shown. Failure to settle the 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 have to be charged. Further, it is not clear as to why the pending bills were not paid since the State Department had recorded a surplus of Kshs. 588,772,931 which was adequate to pay them off.The list of the pending bills provided did not have the details of the tender number contract sum, payment vouchers and the pending invoices to facilitate audit verification. In view of the foregoing, it was not possible to ascertain the correctness, completeness and propriety of the pending bills balance of Kshs. 134, 606,297.

Submission by the Accounting Officer

The accounting officer confirmed that it was true that bills amounting to Ksh. 134,606,297 chargeable to both recurrent and development for the year under review were not paid in the year but instead carried forward to 2015/2016 financial year. It is also true that in that financial year we had a surplus of Kshs. 588,772,931.

The State Department besides having the above surplus did not have adequate exchequer funding and was therefore not able to settle the bills. Some of the documentation to the pending bills were not received in good time to facilitate payments. The amount of Ksh. 588,772,931 related to other budget items other than where the pending bills were incurred and hence could not be used to pay the pending bills.

Committee Observations and Findings

1. **The State Department incurred pending bills amounting to Ksh. 134,606,297 chargeable to both recurrent and development during the FY 2014/2015 which were carried forward to the FY 2015/2016. Further, the Department had a surplus of Kshs. 588,772,931 in the FY 2014/2015; and**
2. **The State Department was not able to utilize the surplus of Kshs. 588,772,931 realized in the FY 2014/2015 since the surplus was not related to the budget item under which the pending bills were incurred.**

Committee Recommendation

The Accounting Officers should at all cost avoid incurring pending bills in any financial year. In case of any pending bills, this should form a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget.

404. Cash and Bank Balances

404.1 Bank Reconciliation

Examination of the bank reconciliation statement as at 30 June 2015 revealed the following unexplained reconciling items: 404.2 Recurrent Account the recurrent cash books reflected unpresented cheques totaling Kshs. 97,280,760 including stale cheques of Kshs. 10,303,321 and which had not been written back to cash book. Further, Kshs.18, 504,602 was payments in bank not posted in cash book which is an indication of poor financial accountability.

Submission by Accounting Officer

The accounting officer confirmed that it was true that the cash books reflected unpresented cheques totaling to Ksh. 97,280,760 including stale cheques of Kshs.10, 303,321 which have not been written back to the cash book. Further, Ksh. 18,504,602 were payments in bank not posted in the cash book. The amount of Kshs. 18,504,602 of payment in bank not posted in cash book was because of misposting in the cash books, this is where payment made through recurrent bank account were erroneously recorded in development cash book as per the attached schedules. The adjustments in respective cash books have been done.

The Stale cheques of Ksh. 10,303,321 related to balances carried forward from previous years in the stale cheques account code. This balance has since been cleared through the authority of Treasury old balance committee in concurrence with the Office of the Auditor-General.

Committee Observation and Finding

The recurrent cash books of the State Departments during the financial year reflected unpresented cheques totaling Kshs. 97,280,760 including stale cheques of Kshs. 10,303,321 and which had not been written back to cash book. Further, Kshs.18, 504,602 was payments in bank not posted in cash book which is an indication of poor financial accountability.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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;

402.2 Statement of Cash flows

Under the statement of cash flows, the opening balance of Kshs.69, 355,058 is at variance with the cash at the end of the previous period of Kshs.913, 355,058. Further, included in the statement is an unexplained item described as adjustment during the year of Kshs.312, 351,715. The item is used as a balancing figure in the cash flow statement.

In view of the differences in the figures, the accuracy and completeness of the financial statements could not be ascertained.

Submission by Accounting Officer

The accounting officer confirmed that it was true that under the statement of cash flows the opening balance of Kshs. 69,355,058 is at a variance with the cash at the end of the previous period of Ksh. 913,355,058. Further included in the statement is an unexplained item described as adjustment during the year of Kshs, 312,351,715. This was occasioned by misposting in accounts receivables and payables.

The financial statements were later adjusted and presented to the auditor for review. (**Annex-III Statement of Cash flow pg.11).**

Committee Observations and Findings

1. **The opening balance of Kshs.69, 355,058 was at variance with the cash at the end of the previous period of Kshs.913, 355,058.**
2. **There was also an unexplained item described as adjustment during the year of Kshs, 312,351,715. This was occasioned by misposting in accounts receivables and payables.**
3. **The matter remains unresolved.**

404.3 Deposits and Retention Balance

Management did not provide bank reconciliation or bank confirmation certificate for the deposits account balance of Kshs.65, 951,822 as at 30 June 2015.

Submission by Accounting Officer

The accounting officer agreed that it was true that management did not provide bank reconciliation or bank confirmation and analysis for the deposit account balance of Kshs. 65,951,822 as at 30th June 2015.However the statement was later provided to the auditors for review.

Committee Observation and Finding

The Accounting Officer failed to provide in time bank reconciliation or bank confirmation certificate for the deposits account balance of Kshs. 65,951,822 as at 30 June 2015 contrary to the provisions of Section 9(1e) of the Public Audit Act No. 34 of 2015 which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

Committee Recommendation

The erstwhile Accounting Officer should be investigated by the EACC for failure to provide access to bank reconciliation or bank confirmation certificate for the deposits account balance of Kshs. 65,951,822 as at 30 June 2015 contrary to the provisions of Section 9(1e) of the Public Audit Act No. 34 of 2015.

404.4 Cash Balance Brought Forward

The cash balance brought forward of Kshs. 69,355,058 is not in agreement with the 2013/2014 certified closing balance of Kshs. 913,355,099 leading to an unexplained difference of Kshs. 845,335,599. In the circumstances, it has not been possible to ascertain the correctness, completeness and accuracy of the cash and bank balance of Kshs.68, 127,950 as at 30 June 2015.

Submission by Accounting Officer

The accounting officer confirmed that it was true that the cash balance brought forward of Kshs.69, 355,058 is not in agreement with the 2013/2014 actual closing balance of Kshs.913, 355,099.00 leading to an unexplained difference of Ksh. 845, 335,599.00. This was occasioned by the split of the Ministry from Ministry of Environment and Natural Resources into two different Ministries and which took up the balances. The figure of Kshs. 69,355,058 was taken up by the Ministry of Water and Regional Authority. The figure of Kshs. 68,127,950 as at 30th June, 2015 was the balance of cash and cash equivalent in the financial year 2013/2014.

Committee Observation and Finding

The cash balance brought forward of Kshs.69, 355,058 in the financial year was not in agreement with the closing balance as at the end of the FY 2013/2014 of Kshs. 913,355,099.00 leading to an unexplained difference of Ksh. 845, 335,599.00.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months of 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.

405. Other Grants and Transfers

During the year under review, the State Department of Water made a disbursement of Kshs.2, 557,027,515 to four (4) projects. However, the project accounts as at 30 June 2015 had a cumulative balance of Kshs. 891,012,754 resulting to an unexplained difference of Kshs.1, 666,014,761as shown below:

No.	Project Name	Disbursement (Kshs.)	Project F/S (Kshs.	Variance (Kshs.)
1.	Kenya Italy Debt Project	224,500,000	473,500,000	-249,000,000
2.	Kenya Water Security and Climate Resilience	398,020,354	417,512,754	-19,492,400
3.	KOSFIP	809,537,044	Not provided	809,537,044
4.	UTNRM	1,124,970,117	Not Provided	1124,970,117
	Total	2,557,027,754	891,012,754	1,666,014,761

Further, the management has not reconciled the two set of records. In view of the foregoing, it has not been possible to ascertain the completeness and propriety of Kshs.2, 557,027,515 disbursed to the four projects during the financial year ended 30 June 2015.

Submission by Accounting Officer

The accounting officer noted that it was true that during the year under review we made a disbursement of Kshs. 2,507,027,515 to the four projects. The project account as at 30th June had a cumulative balance of Kshs. 891,012,754 resulting to an unexplained difference of Kshs. 1,666,014,761. This was as a result of disbursement made towards the end of the Financial Year and received by projects after the end of Financial Year 2015 therefore recorded in the projects as receipts in the following Financial Year 2016.

Committee Observations and Findings

1. **The State Department of Water made a disbursement of Kshs.2, 557,027,515 to four (4) projects. However, the project accounts as at 30th June 2015 had a cumulative balance of Kshs. 891,012,754 resulting to an unexplained difference of Kshs. 1,666,014.76; and**
2. **The Accounting Officer failed to reconcile in time the disbursement made towards the end of the FY 2014/2015 and received by projects and recorded in the subsequent FY 2015/2016**

Committee Recommendations

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months of 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.

406. Accounts Receivables -Suspense and Clearance Account

Included in the Accounts Receivables balance of Kshs. 1,492,351,793 as at 30 June 2015 is an amount of Kshs. 1,490,519,078 described as suspense and clearance account which has not been explained. Further, imprests of Kshs.1, 785,524 remained outstanding as at 30 June 2015. In addition, the accounts receivable balance of Kshs.1, 492,351,793 differs with Kshs.844, 000,041 reflected in Note 25. In the circumstances, it has not been possible to ascertain the accuracy and recoverability of the Accounts Receivables balance of Kshs.1, 492,351,793.

Submission by Accounting Officer

The accounting officer responded by confirming that it was true that included in the accounts receivable balance of Ksh. 1,492,351,793 as at 30th June 2015 is an amount of Ksh. 1,490,519,078 described as suspense and clearance account. Further imprests of Ksh.1, 758,524 remained outstanding as at 30thJune, 2015. In addition, the accounts receivable balance Ksh. 1,492,351,793 differs with Ksh. 844,000,041 in Note 25. The outstanding imprests have since been cleared and advances also recovered. Suspense and clearance account are balances from previous years which have since been cleared using authority from National Treasury Old Balances Account Committee in concurrence with the Auditor General.

Committee Observation and Finding

The accounts receivable balance of Ksh. 1,492,351,793 as at 30th June 2015 included an amount of Ksh. 1,490,519,078 described as suspense and clearance account. In addition, the accounts receivable balance Ksh. 1,492,351,793 differs with Ksh. 844,000,041. Further imprests of Ksh.1, 758,524 remained outstanding as at 30thJune, 2015.

Committee Recommendations

1. **The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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; and**
2. **The Accounting Officer must at all times ensure that imprest are recovered within the stipulated time as provided for in Regulation 93 of the PFM (National Government) Regulations 2015**

407. Irregular payment of Cabinet Secretary's Vehicle

The Department purchased a vehicle for the Cabinet Secretary at a cost of Kshs.7, 000,000 contrary to Office of the President Circular Ref. No. CAB/56/2A of 7 July 2011 which gave the upper limit of Kshs. 2,000,000. In the circumstances, the Department spent Kshs.5, 000,000 irregularly and the amount has not been recovered.

Submission by Accounting Officer The Accounting Officer stated that Cabinet Secretary was entitled to a car allowance of Kshs. 7,000,000 taxable as per the presidential circular Ref. No. CAB/56/2A of 7 July 2011. The Ministry erroneously paid the whole amount of Kshs. 7,000,000 to Toyota Kenya without withholding the 30 percent tax of Kshs. 2,100,000 which was supposed to be remitted to KRA. Further efforts are being made to recover this amount from the officer as per the attached correspondences.

Committee Observations and Findings

1. **The Accounting Officer purchased a vehicle for the erstwhile Cabinet Secretary at a cost of Kshs. 7,000,000 taxable as per the presidential circular Ref. No. CAB/56/2A of 7 July 2011; and**
2. **The Accounting Officer failed to withhold the due 30 percent tax of Kshs. 2,100,000 which was supposed to be remitted to Kenya Revenue Authority.**
3. **The Committee was unable to establish which circular was relied on**

Committee Recommendations

The Accounting Officer needs to take measure to recover the erroneous payment and remit the tax to KRA within (3) months of adoption of this report, failure to which he should be surcharged.

408. Irregular Procurements

408.1 Irregular Contracts Payments

During the year under review, the State Department of Water spent Kshs. 10,755,000, Kshs. 2,591,808 and Kshs. 5,187,240 on airtime, cleaning services and security contracts respectively whose contracts had expired on 30 June 2013 and were not renewed. The total expenditure of Kshs.18, 534,048 incurred on the expired contracts were in contravention of the Public Procurement and Disposal Act, 2005. No documents were provided to confirm that services were rendered. In the circumstances, the propriety of the expenditure of Kshs.18, 534,048 could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that it was true that during the year under review the state department for water spent Kshs. 10,755,000, Kshs. 2,591,808 and Kshs. 5,187,240 on airtime, cleaning and security contracts respectively whose contracts had expired on 30th June 2013 and were not renewed. These services were shared amongst the Departments housed in Maji House from other Ministries like Fisheries Department. The State Department used contracts of the other departments to pay up for the services in question.

Committee Observations and Findings

1. **The State Department of Water spent Kshs. 10,755,000, Kshs. 2,591,808 and Kshs. 5,187,240 on airtime, cleaning services and security contracts respectively whose contracts had expired on 30th June 2013 and were not 225 renewed; and**
2. **The total expenditure of Kshs.18, 534,048 incurred on the expired contracts were in contravention of the Public Procurement and Disposal Act, 2005. Further no documents were availed to the auditor to confirm that services were rendered.**

Committee Recommendation

The erstwhile Accounting Officer should be investigated for spending a total Kshs. 18,534,048 incurred on the expired contracts in contravention of the Public Procurement and Disposal Act, 2005 and for failure to avail documents to the Committee

408.2 Procurement of Laboratory Chemicals

The State Department of Water procured laboratory chemicals amounting to Kshs. 2,214,700 without the requisition from user department. Further, the chemicals were not included in the annual procurement plan for the department. Consequently, the propriety of the expenditure of Kshs. 2,214,700 could not be ascertained.

Submission by Accounting Officer

The accounting officer responded by stating that it was true that the state department for water procured laboratory chemicals amounting to Ksh. 2,214,700, however there were requisitions for the items the user department for laboratory chemicals and reagents has an internal requisitioning system on standardized forms. It is further true that the chemicals were not included in the annual procurement plan for the user department. This is because the user department of the chemicals in its routine day to day work receives emergency requisitions from regional/county stations which must be responded to urgently.

Committee Observations and Findings

1. **The State Department of Water procured laboratory chemicals amounting to Kshs. 2,214,700 in the FY 2014/2015;**
2. **The acquisition of the chemicals was not included in the annual procurement plan contrary to the provisions of Section 26(3a) of the Public Procurement and Disposal Act, 2005 which provided that all procurement shall be within the approved budget of the procuring entity and shall be planned through an annual procurement plan.**

Committee Recommendations

The erstwhile Accounting Officer should be held accountable for making procurement of laboratory chemicals amounting to Kshs. 2,214,700 in the FY 2014/2015 without including the items in the annual procurement plan;

408.3 Irregularly Contracted Professional Services

During the year under review, the State Department of Water paid consultants Kshs.5, 452,000 for the preparation of National Water Coverage Study Report. However, it was not clear how the consultant firm was identified as there were no tender documents availed for audit verification to confirm the tendering process. As a result, it has not been possible to confirm the propriety and value for money for the expenditure of Kshs.5, 542,000.

Submission by Accounting Officer

The accounting officer responded by confirming that it was true that during the year under review the state department of water paid consultants Kshs. 5,452,000 for the preparation of National Water Coverage Study Report. However, the due process in identifying the consultant was followed. The Ministerial Tender Committee awarded the consultancy to M/s. Bhundia Associates Consulting Engineers. The Contract was signed and entered on 3rd June 2014. The tender documents have since been availed to the auditor for review.

Committee Observations and Findings

1. **The State Department of Water paid consultants Kshs. 5,452,000 for the preparation of National Water Coverage Study Report in the FY 2014/2015; and**
2. **The Ministerial Tender Committee awarded the consultancy contract to M/s. Bhundia Associates Consulting Engineers. The Contract was signed and entered on 3rd June 2014.**

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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;

408.4 Irregular Payments of Water Bills

During the year 2014/2015, the State Department of Water paid Kshs. 11,502,665 to Nairobi Water and Sewerage Company in respect to accumulated water bills whose invoice did not disclose the period of consumption. Further, it was established that the Department is not supplied with water from the water company as they use their own borehole water. Consequently, it has not been possible to ascertain the propriety of the expenditure of Kshs.11, 502,665.

Submission by Accounting Officer

During the FY 2014/2015, the State Department of Water paid Kshs. 11,502,665 to Nairobi Water and Sewerage Company in respect to accumulated sewerage services bills since 1992. The Ministry uses water from its own borehole. However, Nairobi City Water and Sewerage Company limited installed a water meter on the borehole to enable them charge sewerage services. The Kshs. 11,502, 665 is an accumulation of sewerage charges and is based on 75 percent of water consumption as a discharge to Nairobi Water and Sewerage Company sewer system the duration is as explained in the correspondences between the Ministry and the Nairobi Water and Sewerage.

Committee Observations and Findings

1. **The State Department of Water paid Kshs. 11,502,665 to Nairobi Water and Sewerage Company in purportedly for accumulated sewerage services bills since 1992;**
2. **The State Department uses water from its own borehole. However, Nairobi City Water and Sewerage Company Limited installed a water meter on the borehole to enable them charge sewerage service based on 75 percent of water consumption as a discharge to Nairobi Water and Sewerage Company sewer system.**

Committee Recommendations

The Accounting Office should within three (3) months after the adoption of this report avail to the Auditor-General documents invoices and meter readings since 1992 for audit verification and reporting in the subsequent audit reports.

409. Euro Bond Proceeds

During the year under review, the State Department of Water received Kshs.11, 170,613,958 funded through the sovereign bond. However, the management has not provided any list of project(s) that were funded by the Eurobond proceeds. In the circumstance, it has not been possible to confirm how the Eurobond funds were utilized.

Submission by Accounting Officer

The accounting officer noted that the State Department for water received a cumulative exchequer provision of Kshs. 17,496,332,836 for its normal operations in the year under review. There was no specific exchequer received from Euro Bond proceeds.

Committee Observations and Findings

1. **The State Department for Water received a cumulative exchequer provision of Kshs. 17,496,332,836 from the National Treasury for its activities during the financial year; and**
2. **There was no sovereign bond specific exchequer received by the State Department from the National Treasury and therefore it cannot be confirmed with certainty that Ksh. Kshs.11, 170,613,958 out of the total exchequer received by the Department of Ksh. 17,496,332,836 during the period under review was from proceeds of the sovereign bond.**

Committee Recommendations

All queries pertaining to the Euro Bond should be directed to the Cabinet Secretary for the National Treasury for direction.

410. Investment in Motor Vehicles

The State Department has eighty-one (81) motor vehicles some of which belong to other Government Agencies and Departments. The State Department does not maintain a clear register of its fleet and it was further learnt that thirty (30) motor vehicles were lying at various garages with some having been there for considerably long time grounded though some had minor mechanical defects. Further, forty-nine (49) vehicles were not seen during a physical verification, while a number had not operated for several months as per existing work tickets. In the circumstances, it has not been possible to ascertain that the Department got value for money from the State Department's investment in motor vehicles to enhance its efficiency and effective service delivery.

Submission by Accounting Officer

The accounting officer noted that it was true that the State Department had Eighty-one (81) motor vehicles some of which belong to other MDAs and projects which included Kenya Water Security and Climate Resilience Project (KWSCRP), National Water Conservation and Pipelines Corporation (NWSCP), Water Resources Management Authority (WARMA) and National Irrigation Board (NIB) among others.

He also confirmed that it was true that at the time of audit the Ministry had a motor vehicle register but it had not been updated owing to reorganization of government ministries and departments the register is now available.

He continued that it was also true that thirty motor vehicles were lying at various garages with others having been there for considerably long time this is because the Ministry did not have funds facilitate the repairs; the vehicles have since been repaired. It was also true that forty-nine of the vehicles were not available for physical inspection since they are being managed by respective agencies and projects that they are attached to.

Committee Observations and Findings

1. **The Accounting Officer did not update asset register with to include all the motor vehicles owned by the entity as required under Regulation 143 of the PFM (National Government) Regulations 2015;**
2. **Thirty motor vehicles belonging to the State Department were at the time of audit lying at various garages with others having been there for a considerably long time. The Accounting Officer attributed this to lack of funds to facilitate the repairs and that the vehicles have since been repaired; and**
3. **Forty-nine vehicles for the State Department were not available for physical inspection since they are being managed by respective agencies and projects that they are attached to.**

Committee Recommendations

1. **The Accounting Officer should ensure that the asset register is continuously updated to include all assets owned by the entity including the motor vehicles as required under Regulation 143 of the PFM (National Government) Regulations 2015; and**
2. **The Accounting Officers should within three (3) months of adoption of the report provide access of the thirty (30) motor vehicles to the Auditor-General to ascertain that the vehicles were repaired and working; and**
3. **The Accounting Officers should within three (3) months of adoption of the report provide access of the forty-nine (49) vehicles to the Auditor-General for physical inspection to ascertain their ownership and condition.**

27.0. MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES

27.1. STATE DEPARTMENT OF AGRICULTURE

FINANCIAL STATEMENTS FOR VOTE 152

Dr. Richard Lesiyampe, the Accounting Officer for the State Department of Agriculture accompanied by Prof. Hamadi Boga, Principal Secretary Research; Mr. Kello Hassani, Administration Secretary; Mr. Samwel Kungu, AAg; Mr. Joseph Ngetich IDG – AFA; Mr. James Wanjoi, TALRS – SDC; Mr. Peter Chemwite, Finance; Mr. Edwin Oseko, Director Crops ADC; Mr. Richard Aiyabe, Managing Director ADC; Mr. Paul Njuguna, ADC Tech Manager; Mr. Cornel Ngelechy, General Manager, NCPB appeared before the Committee on 23rd May 2018 and 8th June, 2018 to adduce evidence on the audited financial statements for Vote 152 State Department of Agriculture for the Financial Year (FY) 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached.

Basis for Qualified Opinion

411. Unsupported Expenditure

411.1 Procurement of Seed Potato

Included in the statement of receipts and payments is a figure of Ksh. 7,133,345,820.00 in respect of acquisition of assets. As reflected in Note 13 to the accounts, the Department incurred an expenditure of Ksh.700, 718,840.00 on account of purchase of certified seeds, breeding stock and live animals, out of which, an amount of Ksh. 25,000,000.00 was paid to a supplier for importation of seed potato from Netherlands. Information available indicates that the supplier was apparently single sourced contrary to Section 29 of the Public Procurement and Disposal Act, 2005. This not notwithstanding, and the supplier having been paid the full price of Ksh. 25,000,000.00, the payment was not supported with relevant documentation including an invoice and delivery note. Consequently, the propriety of the expenditure of Ksh. 25,000,000.00 could not be ascertained.

Submission of the Accounting Officer

The Accounting Officer that the Ministry was concerned with the low level of availability of certified potato seed and in a meeting convened for the major seed potato stakeholders in July 2014, it was noted that the bottlenecks are at the production and availability of basic seed potato from KALRO and certified seed potato from ADC who depend on KALRO to providethe basic seed which is multiplied to certified seed for sale to farmers. The Ministry hence resolved to support the two National Institutions to increase seed potato production to 10 percent of the requirement in 3 years. Other Private and Development Partners were also to be roped in to have a further increase of certified seed potato availability to 30 percent in the same period (3 years).

The government of Netherlands had already entered into an MOU with The Kenya Plant Health Inspectorate Service (KEPHIS) in 2012 to introduce new potato varieties in Kenya especially the processing type which were lacking in the country leading to potato processors importing potatoes from other countries like Egypt for crisps processing. The Dutch government therefore brought in about 7 Dutch companies dealing with seed potatoes to introduce new varieties after undergoing the mandatory National Performance Trials (NPTs) by KEPHIS. By early 2015, about 21 new Dutch varieties had been released in Kenya with Agrico E. A. Seed Company being the main company releasing about half of the potato varieties (over 10). However, local farmers were not getting these varieties as no significant multiplication was taking place in Kenya.

The Ministry therefore intervened by asking ADC to import some of the Dutch varieties and multiply them locally to further increase the availability of certified seed potato to farmers with multiplication of more varieties. The Kenya-Netherlands Seed potato programme in conjunction with the Agricultural attaché at the Dutch Embassy was asked to consult the 7 Dutch Companies on the possible supply of 2000 MT of seed potato. However, most companies indicated that they had already sold their seed and some had very little remaining and only of one variety. The Company that was able to supply some reasonable amount of seed potato was Agrico E. A. Seed Company but also only 250 MT.

The Ministry had then to scale down its seed importation plan to the 250MT available. The single sourcing was undertaking as out of the seven firms that had been recommended by the Government of the Netherlands M/s Agrico was the only company with substantial amount of seed at that time and of different varieties. The award of a contract valued at Ksh. 25 million to M/s Agrico to import seed potato from Netherlands for potato multiplication bulking was part of the Ministry's effort to increase the availability of certified seed potato to farmers from the current low of less than 2 percent of the National requirement to about 30 percent in 3 years.

The Accounting Officer stated he has attached in his submission the invoice, delivery note and Letters of Credit documents to support the payment of Ksh. 25,000,000.00 and to confirm that the seed potato was indeed received.

Committee Observations and Findings

1. **The supplier for the certified potato seeds was single sourced contrary to Section 29 of the Public Procurement and Disposal Act, 2005 and subsequently paid the full contract price of Ksh. 25,000,000.00;**
2. **The Accounting Officer did not at the time of audit provide to the Auditors, the relevant documentation including invoices, delivery note, and letters of credit to support the payment of Ksh. 25,000,000 to the supplier and to confirm that indeed the seed potato were received; and**
3. **The reasons for use of single sourcing (restricted tendering) provided by the Accounting Officer were not convincing and justifiable in law since there was no written approval of the Ministerial Tender Committee tender and records in writing providing the reasons for using the alternative procurement procedure as required under Section 29(3) of the Public Procurement and Disposal Act 2005**

Committee Recommendations

1. **Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.**
2. **The DCI and EACC should, within three months after adoption of this report, investigate the use of restricted tendering contrary to the provisions of Section 29(3) of the Public Procurement and Disposal Act 2005 and allow for prosecution, if evidence permits.**

411.2 Purchase of Certified Seeds

Further, reflected in Note 13 to the financial statements, is an amount of Ksh. 700,718,840.00 incurred on purchase of certified seeds, breeding stock and live animals, which includes an amount of Ksh. 300,000,000.00 that is not supported by payment vouchers and other relevant documents. As a result, it is not possible to confirm on the adequacy of the procurement procedures in relation to these purchases and confirm if the expenditure of Ksh. 300,000,000.00 is a proper charge to public funds.

Submission of the Accounting Officer

The Accounting Officer in his submission confirmed that it was true that in the FY 2014/2015 the State Department had a total expenditure of Ksh. 700,718,840.00 for purchase of certified seeds which included an amount of Kshs. 400,000,000.00 was a payment to Kenya Seeds Company which the government had committed to the Company to sell seeds to farmers at subsidized price.

Committee Observations and Findings

1. **The State Department of Agriculture spent a total of Ksh. Ksh. 700,718,840.00 on purchase of certified seeds, breeding stock and live animals in the FY 2014/2015;**
2. **The State Department paid a total of Ksh. 400 million to Kenya Seeds Company Ltd purportedly to subsidize sale of seeds by the company to farmers during the period; and**
3. **The total payment of Ksh. 400 million to Kenya Seed Company Ltd which included an amount of Ksh. 300 million that was not supported by payment vouchers and other relevant documents to confirm the adequacy of the procurement procedures in relation to these purchases and if the expenditure was a proper charge to public funds.**

Committee Recommendations

1. **Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.**

2. **The EACC and DCI should, within three (3) months of adoptio of this report, investigate the payment of Ksh. 400 million which was paid to Kenya Seed Company Ltd purportedly to subsidize sale of seeds by the company to farmers during the period.**

411.3 Purchase and Transportation of Subsidized Fertilizer

In addition, reflected in Note 13 to the financial statements, is a figure of Ksh. 3,744,961,384.00 in respect of acquisition of strategic stocks and commodities, which includes an amount of Ksh. 2,129,128,557.70, paid to National Cereals and Produce Board (NCPB) as subsidy for purchase of fertilizer to be sold to farmers. However, apart from an invoice and a schedule raised by NCPB, no verifiable documents have been produced to confirm the actual quantity of fertilizer bought and receipted by NCPB, the quantity sold to farmers and the purchase and selling prices. Consequently, the propriety of the Ksh. 2,129,128,557.70 expenditures on subsidized fertilizer charged to public funds could not be ascertained.

Submission of the Accounting Officer

The Accounting Officer in his submissionconfirmed it was true that the State Department had a total expenditure of Ksh. 2,129,128,557.70 was paid to National Cereals and Produce Board. NCPB sells subsidized fertilizers to vetted and registered farmers. The farmers fill a special green form in order to access the fertilizers and these green forms are used to claim subsidy from the Ministry. These forms are bulk and are kept at the NCPB headquarters for inspection before subsidy is paid. These forms are available at NCPB offices for inspection and scrutiny.

Committee Observations and Findings

1. **The State Department incurred an expenditure of Ksh. 2,129,128,557.70 paid to National Cereals and Produce Board (NCPB) for subsidy for purchase of fertilizer which was to be sold to farmers;**
2. **The Accounting Officer did not at the time of audit provide to the Auditors, the relevant verifiable documentation to confirm the actual quantity of fertilizer bought and receipted by NCPB, the quantity of fertilizers sold to farmers and the amount realized from the sale of the fertilizers to farmers; and**
3. **The reason given by the accounting officers that the farmers fill a special green form in order to access the fertilizer and that these forms were bulky and are kept at the NCPB headquarters for inspection before subsidy is paid was not convincing to the Committee. The Accounting Officer had the statutory responsibility to facilitate auditors to access the records at NCPB Headquarters.**

Committee Recommendations

1. **Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.**

2. **The DCI and EACC should, within three (3) months of tabling of this report, investigate the payment of Ksh. Ksh. 2,129,128,557.70 to National Cereals and Produce Board (NCPB) to determine if need public money was utilized for the intended purpose and the total money realized from the purported sale of subsidized fertilizer to farmers by the government and allow for prosecution, if evidence permits.**

412. Bulking of Traditional High Value (Orphaned) Crops

The State Department entered into a Ksh. 30,095,000.00 Memorandum of Understanding (MOU) with Kenya Agricultural and Livestock Research Organization (KALRO) in which KALRO was to undertake a multiplication of various traditional high value (orphaned) crops including cassava, sweet potatoes, cowpeas, 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. 30,095,000.00 was released to KALRO to undertake the project, no evidence has been adduced to confirm that the project was carried out, completed and crops distributed to the intended areas. The Ksh.30, 095,000.00 expenditures were therefore, not accounted for. Consequently, the intended objective was not met and, as such, the Government did not get value for money.

Submission by Accounting Officer

The Accounting Officer in his submission explained to the Committee that the overall objective of the Traditional High Value Crops Program (Orphan Crops) is to improve access to drought tolerant crop technologies for drought recovery, resilience, reduce gap between production and consumption as well as mitigate against climate change challenges facing the country in the Arid and Semi-Arid Lands. The project specific objectives are;

a) To improve farmers access to seeds of traditional high value and drought tolerant crops especially in the arid and semi-arid areas.

b) To promote diversification to other food crops other than maize.

c) To improve farmer’s household food security and nutrition sufficiency.

d) To improve farmers’ income through generation of surplus output for sale.

e) To reduce the gap between domestic food production and consumption

Achievements of the project

Improved availability of high quality drought tolerant seeds - 401.25MT of seed distributed

a) Increase in area and production of traditional crops – 68,795ha planted.

b) Positive change in the attitude towards traditional crops.

c) Improved availability and access to food in semi-arid areas.

d) Improved living standards where crops are grown

e) Improve farmer's household food and nutrition security

The Counties covered by the project are; Baringo, Makueni, Machakos, Tharaka Nithi, Kirinyaga, Kisumu, Busia, Kwale, TaitaTaveta and Lamu. Counties benefiting in the long rains season are: Siaya, Pokot, Nakuru, Narok, Kajiado, ElgeyoMarakwet, Turkana, Samburu, Nyeri, Muranga, Nyandarua, Kiambu, Kitui, Isiolo, Isiolo, Marsabit, Embu, Kilifi, Kwale, Tana River.

The Accounting Officer provided as an attachment to his submission a distribution lists for the seeds are attached in and copies of photographs of the farmers receiving the seeds are attached.

Committee Observations and Findings

1. **The State Department incurred a total of Ksh. 30,095,000 as payment to Kenya Agricultural and Livestock Research Organization (KALRO) based on an MOU in which KALRO was to undertake a multiplication of various traditional high value (orphaned) crops including cassava, sweet potatoes, cowpeas, sorghum, finger millet and beans; and**
2. **The Accounting Officer did not at the time of audit provide to the Auditors, the relevant verifiable documentation to confirm that the project was carried out, completed and crops distributed in Arid and Semi-Arid Lands (ASAL) of Baringo, Makueni, Machakos, Tharaka Nithi, Kirinyaga, Kisumu, Homa Bay, Busia, Kwale and Taita Taveta Counties as per the MOU.**

Committee Recommendation

Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.

413. Purchase of Tecno S9 Tablets

The statement of receipts and payments for the year ended 30th June 2015 reflects an amount of Ksh. 5,305,771,282.00 in respect of use of goods and services, which, and as reflected in Note 9 to the financial statements, includes an expenditure of Ksh. 15,308,529.00 incurred on communication, supplies and services, out of which, Ksh. 5,584,025.00 was incurred on the purchase of 413 Tecno S9 Tablets. However, no evidence was availed to confirm that proper procurement procedures were followed in accordance with the procurement legislation and its regulations and how or to whom the tablets were distributed. Consequently, the propriety of the Ksh. 5,584,025.00 expenditures could not be ascertained as a proper charge to public funds.

Submission of the Accounting Officer

The Accounting Officer in his submission confirmed that it was true that the State Department purchased Tablet Gadgets from Safaricom. He attached in his submission all documents which were used to support the expenditure which included the delivery note from Safaricom, purchase order generated through the IFMIS System and the requisition from the department. Also included were the issue vouchers, receipt voucher to show that the items were received and issued to the Department. It is true that the items were procured and specifications are hereby attached.

Committee Observations and Findings

1. **The State Department incurred an expenditure of Ksh. 5,584,025.00 for the purchase 413 Techno S9 Tablets from Safaricom Kenya Ltd during the financial year; and**
2. **The Accounting Officer did not at the time of audit provide to the Auditors, the relevant verifiable documentation to confirm that proper procurement procedures were followed in accordance with the procurement legislation and its regulations and how or to whom the tablets were distributed;**

Committee Recommendation

Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.

414. Procurement of Fertilizer

The Ministry advertised, under Tender No. MOALF/SCMD/AGRIB/12/2014-2015, for supply and delivery of 54,950 metric tons of 8 lots - equivalent to 1,099,000 (50kg) bags of fertilizer. Out of the 21 firms which responded, 7 were found to be responsive and were awarded contracts to supply fertilizer at different prices per 50 Kg bag, depending on the

region or point of delivery. Lot 1 was won by bidder No. 4 (M/s Global Link East Africa Ltd) to supply at a price of Ksh. 2,655.00 per 50 Kg being the lowest evaluated bidder at a total cost of Ksh. 265, 500,000. Lot 2 was also won by bidder No. 4 at a price of Ksh. 2,430.00 per 50 Kg bag with a total price of Ksh. 364,500,000.00. Information available indicates that bidder No.4 declined to sign the contract agreement even after delivering their acceptance letter. Consequently, the Ministerial Tender Committee made a decision to disqualify the bidder and award the tender to the second lowest evaluated bidder who was bidder No. 6 (M/s Performance Parts Ltd) at total prices of Ksh. 320, 000,000.00 and Ksh. 436,850,000.00, all totaling Ksh. 756, 850,000.00. No explanation has been given on why bidder No. 4 declined to sign their contract agreement. In addition, and despite our request for management to produce tender documents and correspondences relating to the disqualified bidder, no documentation was availed.

In awarding the contract to the second lowest evaluated bidder without giving justifiable reasons, the Ministry lost an amount of Ksh. 126,850,000.00, being the difference between the amount paid to the second lowest evaluated bidder and the amount that would have been paid to the lowest evaluated bidder, as follows:

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
Total	**630,000,000.00**	**756,850,000.00**	**126,850,000.00**

The various Committees established pursuant to the Public Procurement and Disposal Regulations, 2006 did not follow the laid down procedures in this award and, as such, it is evident that the Government did not get value for money on this procurement.

Submission by Accounting Officer

The Accounting Officer in his submission noted that the Ministry did not contravene procurement regulations by awarding the contract for supply and delivery of lot 1 and 2 to 2nd lowest evaluated bidder, M/S Performances Parts Ltd. According to the tender document issued to the bidders which also forms part of the contract it is clear on the time required for contract signature. The letter on notification of award (from 8.8) which is one of the forms comprising the tender document clearly outlined that contracts should be signed within thirty days but not earlier than fourteen days from the date of notification. Since the notification of award to M/S Global link Limited was on 22nd December, 2014, it is clear that the 30 days had elapsed and the firm had not shown any intention of signing the contract which prompted the Ministry to go to the second lowest evaluated bidder. Please see the tender documents as issued by the bidders for your information.

Committee Observations and Findings

1. **The Ministry advertised, under Tender No. MOALF/SCMD/AGRIB/12/2014-2015, for supply and delivery of 54,950 metric tons of 8 lots equivalent to 1,099,000 (50kg) bags of fertilizer;**
2. **Lot 1 was won by bidder No. 4 (M/s Global Link East Africa Ltd) to supply at a price of Ksh. 2,655.00 per 50 Kg being the lowest evaluated bidder at a total cost of Ksh. 265, 500,000. Lot 2 was also won by bidder No. 4 at a price of Ksh. 2,430.00 per 50 Kg bag with a total price of Ksh. 364,500,000.00 making the total contract sum of Ksh. 630,000,000;**
3. **M/s Global Link East Africa Ltd failed to sign contract agreement within the stipulated and the Ministry awarded the contract for supply and delivery of lot 1 and 2 to 2nd lowest evaluated bidder, M/S Performances Parts Ltd at a total contract sum of Ksh. 756,850,000.00.;**

4. **Apart from time lapse, there was no any other reason given by the Accounting Officer as to why M/s Global Link East Africa Ltd declined to sign a contract for a tender in which it had gladly participated in up to award stage; and**

5. **The Ministry in awarding the contract to the second lowest evaluated bidder lost an amount of Ksh. 126,850,000.00, being the difference between the amount paid to the second lowest evaluated bidder and the amount that would have been paid to the lowest evaluated bidder. The award to the 2nd lowest bidder was informed by the provisions of Section 52 of the Public Procurement and Disposal Act 2005,**

Committee Recommendations

The DCI and EACC should, within three months after adoption of this report, investigate the award of this contract to the second lowest evaluated bidder resulting into loss of Ksh. 126,850,000.00, being the difference between the amount paid to the second lowest evaluated bidder and the amount that would have been paid to the lowest evaluated bidder, and allow for prosecution, if evidence permits.

415. Funds Disbursed to Establish Revolving Funds

The State Department entered into two separate Memoranda of Understanding (MOUs) with Kenya Agricultural and Livestock Research Organization (KALRO) and Agricultural Development Corporation (ADC) with the objective of disbursing amounts totaling Ksh. 200,789,325.00.00 to the two organizations for carrying out Potato Seed Multiplication (Bulking). During the year under review, ADC received an amount of Ksh. 117,500,000.00 to produce 30,000 (50 Kg) bags of basic seeds, 3,000,000 in vitro plantlets and 3,000,000 potato mini-tubers while KALRO received Ksh. 27,889,325.00 for 34,000 in vitro plantlets, 472,220 mini tubers, and 12,400 (50 Kg) bags of basic seeds. The expenditure amounts are included under the Ksh. 15,914,880,511.00 item of transfers to other Government Units. The Ministry also disbursed an additional Ksh. 50,400,000.00 to ADC and Ksh. 5,000,000.00 to KALRO for the same purpose but charged the expenditure under use of goods and services on account of specialized materials and services and operating expenses.

The MOUs provided that once the seed bulking was completed, the seeds would be sold to farmers and the proceeds used to create two Revolving Funds to sustain a continued increased production of basic seeds and certified seed potato. However, despite the Department having disbursed the total amount of Ksh. 200,789,325.00 and the seed bulking project completed, the two Revolving Funds have not been commissioned or established, as a result of which, proceeds from sale of the produced seeds have not been accounted for. Consequently, the Government has not obtained value for money from this project.

Submission by Accounting Officer

The Accounting Officer in his submission stated that KALRO Tigoni received funding from the Ministry as agreed in the MOU with slight delays due to the delayed release of funds from the exchequer. Ksh. 15 million were released in November, 2014 at the beginning of the short rains season 2014 as agreed. However, KALRO were only able to utilize less than half of the amount given (Ksh.6.5 million) in the season hence did not achieve the target acreage promised to the Ministry in the MoU. They requested to be given one more season to achieve the target production claiming that though the Ministry released the funds to KALRO Headquarters on time, the same were not released to the implementing institution, KALRO Tigoni on time hence the delay in achieving the agreed targets. The balance of the funds not utilized in the short rains 2014 season (Kshs. 8.5 million) were then utilized in the long rains 2015 season from March, 2015.

The Ministry then released Ksh. 12.9 million in May 2015 being the balance of the funds agreed in the MoU (Kshs. 27.9 Million) for KALRO funding. This was to be utilized in the requested 3rd season to fully achieve the targeted production agreed in the MoU. However only about a third of these funds (Ksh. 4.7 million) were utilized in the 3rd season from September, 2015 short rains as KALRO Tigoni claimed that KALRO Headquarters did not release all the funds as disbursed by the Ministry. Hence, the problem of non-achievement of targets is an internal problem at KALRO and not due to funds disbursement by the Ministry. The funds released by the Ministry are still not fully utilized by KALRO Tigoni who claim that the funds are not released by KALRO Headquarters on time. KALRO Tigoni reports that they were yet to receive a total of Ksh. 8,189,325 from the Director-General, KALRO Headquarter by December, 2015.

The Ministry has severally expressed its concern to KALRO on the non-achievement of targets on the agreed timelines and the PS has summoned the KALRO DG and his team from KALRO Tigoni to his office on 6th April, 2016 to explain on the non-achievement of the agreed deliverables despite the Ministry releasing all the funds agreed in the MoU.

The Ministry has since 2014 engaged the National Treasury in the setting up Fertilizer and Seed Subsidy Fund whose purpose is to ensure price stabilization of fertilizer and seed. The Draft Legal Notice setting up the Fund under the Public Finance Management Act, 2012, was first submitted to the National Treasury in 2014. The MOU between the Ministry, KALRO and ADC was prepared on the basis that the Legal Notice will be operational so that the funds generated from the sale of the seeds to the farmers would be deposited in the Fund. However, despite the legal notice not being ready, the two institutions have also had challenges in the bulking of the seed and have not realized any sales by the closure of the 2014/2015 financial year. The State Department has submitted the final draft of the Legal Notice that was prepared by an Inter-Agency Technical Committee to the National Treasury for concurrence and forwarding to the Attorney General for legal drafting.

Committee Observations and Findings

1. **The State Department disbursed the total amount of Ksh. 200,789,325.00 to KALRO and ADC based on an MoU which was signed between the Ministry and the two institutions with the objective of the two organizations for carrying out**

Potato Seed Multiplication (Bulking) and setting up a Seed Revolving Fund whose purpose is to ensure price stabilization seed;

2. **The two revolving funds which were to be established by KALRO and ADC have not been commissioned or established, as a result of which, proceeds from sale of the produced seeds have not been accounted for; and**
3. **The Accounting Officer in his submission did not provide an explanation for the delay by ADC in establishing its revolving Fund as per the MoU despite having been paid a total of Ksh. 117,500,000.00 to produce 30,000 (50 Kg) bags of basic seeds, 3,000,000 in vitro plantlets and 3,000,000 potato mini-tubers.**

Committee Recommendations

1. **The EACC should within three (3) months of tabling this report investigate Dr. Eliud K. Kireger, the Director-General, KALRO for failure to manage public funds in a prudent and responsible manner pursuant to Article 201(d) of the Constitution of Kenya, 2010 and particularly for non-achievement of targets and timelines despite KALRO having received a total Ksh. 27,889,325 for 34,000 in vitro plantlets, 472,220 mini tubers, 12,400 (50 Kg) bags of basic seeds which were never realized and no Revolving Fund established in line with the MoU.**

416. Cash and Bank Balance

The bank balance of Ksh. 296, 860,242.00 as reflected in the statement of assets differs with the balance of Ksh. 316, 256,455.00 shown in the cashbook by an unexplained difference of Ksh. 19,396,213.00. In addition, the cash and bank balance of Ksh. 296,860,242.00 excludes cash in hand balance of Ksh. 12, 264.35 despite the fact that it is reflected in both the cashbook and the board of survey report. Under the circumstances, the accuracy of the bank balance figure of Ksh. 296,860,242 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer in his submission stated that it was true the bank balance of Kshs.296, 860,242.00 as reflected in the statement of Assets differed with the balance of Ksh. 316,256,455.00 shown in the cash book. The bank balances of both recurrent and development votes were recovered by the National Treasury as unspent balances for the year ended 30th June 2015. The unspent funds under both the Recurrent and Development bank accounts were recovered at the end of financial year, there we could not include them in the Financial Statements.

Committee Observation and Finding

The bank balance of Ksh. 296,860,242.00 as reflected in the statement of Assets differed with the balance of Ksh. 316,256,455.00 shown in the cash book. Further, the cash and bank balance of Ksh. 296,860,242.00 excludes cash in hand balance of Ksh. 12, 264.35 despite the fact that it was reflected in both the cashbook and the board of survey report.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

417. Pending bills

As reported in note 27.1 to the financial statements, the Department had pending bills totaling Ksh. 4,593,870,216.00 which were not settled in 2014/2015 but were carried forward to the FY 2015/2016. Out of the total, bills amounting to Ksh. 4, 561,941,149.00 relate to the Development Vote while the balance of Ksh. 31 929,067.00 relate to Recurrent Vote. Had the bills been settled and the expenditure accounted for in the FY 2014/2015, the financial statements for the year ended 30 June 2015 would have reflected a deficit (excess vote) of Ksh. 4,590,508,482.00 instead of the surplus (under-expenditure) of Ksh. 3,361,734.00 now shown. Failure to settle bills in the year to which they relate distorts the accounts for that year and adversely affects the budget for the subsequent year, to which they have to be charged.

Submission by Accounting Officer

The Accounting Officer in his submission stated that it was true that the figures of Kshs.4, 593,870,216 were not settled in 2014/2015 but carried forward to 2015/2016. Out of the total bills amounting to Kshs.4, 561,941,149.00 relates to the development vote while the balance of Kshs.31929, 067 relates to recurrent Vote. The pending bills for FY 2014/2015 were all cleared in 2015/2016 financial year.

Committee Observations and Findings

1. **The State Department had a pending of Ksh. Kshs.4, 593,870,216 were not settled in 2014/2015 but carried forward to the FY 2015/2016; and**
2. **The pending bills for FY 2014/2015 were all cleared in 2015/2016 financial year.**

Committee Recommendation

The Accounting Officers should at all cost avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget.

418. Transfers to Other Government Units

The figure of Ksh. 15,914,880,511.00 reflected in the statement of receipts and payments under transfers to other Government units differs from the figures of Ksh. 15,901,492,358.00 and Ksh. 15,586,882,092.00 reflected under note 10 and supporting documents respectively. In addition, no documentary evidence has been provided to confirm that the amounts transferred were received by the intended recipient Institutions. In view of the foregoing, propriety of the transfers to other government units figure of Kshs.15, 914,880,511 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer in his submission confirmed that it was true that the figure of Kshs.15, 914,880,511 reflected in the receipts and payments under transfer to other Government Unit, differed with the figure under note 10. And analysis has been done and the figure corrected to read Kshs.15, 914,880,511.

Committee Observation and Finding

The figure of Ksh. 15,914,880,511.00 reflected in the statement of receipts and payments under transfers to other Government units differs from the figures of Ksh. 15,901,492,358.00 and Ksh. 15,586,882,092.00 reflected under note 10 and supporting documents. This was not reconciled in time for audit.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

Other Matter

419. Outstanding Imprest

The outstanding imprest balance of Ksh. 1,705,004.00 reflected in the statement of assets includes balances of Ksh. 558,814.00 and Ksh. 78,500.00 relating to the periods FY 2012/2013 and 2013/2014 respectively, as well as Ksh. 991,090.00 relating to the FY 2014/2015, that had not been accounted for or recovered as at 30th June 2015. 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.

Submission by Accounting Officer

The Accounting Officer in his submission confirmed that it is true that at the end of the financial year imprests of Ksh. 1,705,004 was outstanding as at 30th June, 2015. The outstanding imprest has been surrendered and accounted for.

Committee Observation and Finding

The State Department has an outstanding imprest balances of Ksh. 558,814.00 and Ksh. 78,500.00 relating to the periods FY 2012/2013 and 2013/2014 respectively, as well as Ksh. 991,090.00 relating to the FY 2014/2015 which were due but had not been accounted for as

at 30th June 2015 in line with 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.

Committee Recommendation

The Accounting Officer should ensure that imprests are managed and surrendered in time in line with the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.

420. Unapproved Airtime

Although Government Circular Ref. OP/CAB/15 dated 5th March 2010 allows officers in job group M and above to receive, as a benefit, airtime ranging from Ksh. 3,000.00 to Ksh. 47,000.00 depending on Job group, the Department provided airtime totaling Ksh. 815,000.00 to officers in Job Group L and below without approval of the Accounting Officer. No justification has been provided by the Accounting Officer for failing to adhere to Government policy.

Submission by the Accounting Officer

The Accounting Officer in his submission herein attached as annex … confirmed that it was true that Government Circular Ref: OP/CAB/15 dated 5th March 2010 allows officers in Job Group M and above to receive as benefit airtime ranging from Ksh. 3,000 to Ksh.4700. It is also true that some officers in job group L and below received as benefit airtime. This was occasioned by the exigency of service to the officers who were required to work overtime beyond normal working hours.

Committee Observations and Findings

1. **The State Department provided airtime totaling Ksh. 815,000.00 to officers in Job Group L and below without approval of the Accounting Officer contrary to the provisions of Government Circular Ref: OP/CAB/15 dated 5th March 2010 allowing officers in Job Group M and above to receive as benefit airtime ranging from Ksh. 3,000 to Ksh. 47,000; and**
2. **The explanation given by the Accounting Officer that the airtime allowance was occasioned by the exigency of service to the officers who were required to work overtime beyond normal working hours was not satisfactory since this was not done with the approval of the Accounting; and**
3. **Further, Officers in Job Group L and below working beyond stipulated working hours are entitled to overtime allowance as stipulated in code J.6 of the Public Service Code of Regulations (Revised) 2006.**

Committee Recommendation

The Accounting Officer should within three (3) months of tabling this report recover an amount totaling Ksh. 815,000.00 from officers in Job Group L and below who received the

payment contrary to the provisions of Government Circular Ref: OP/CAB/15 dated 5th March 2010 allowing officers in Job Group M and above to receive as benefit airtime ranging from Ksh. 3,000 to Ksh. 47,000.

421. Non-Submission of Financial Statements and Failure to Account for Funds by Agricultural Sector Coordination Unit (ASCU)

The Agricultural Sector Coordination Unit (ASCU) is an Inter-Ministerial Secretariat established in 2005, under the Ministry of Agriculture, Livestock and Fisheries, to facilitate implementation and coordination of agricultural sector strategies in line with Vision 2030. The Unit comprises several ministries and receives funding from the Government and other development partners. However, the following unsatisfactory matters have been observed:

a) Since inception in 2005, the Unit, through the parent Ministry, has not submitted financial statements to the Auditor-General for audit as required by Section 7 of the Public Audit Act, 2003. Although the Ministry has indicated that financial statements were prepared for the year ended 30 June 2013, the statements were not submitted to the Auditor-General for audit;

b) Since inception, the Unit has not availed its records, documents, information and books of account to the Auditor-General for examination; and

c) Information available indicates that the Unit appointed M/s Deloitte & Touché as auditors. However, no explanation has been provided for appointing private auditors without the knowledge, consent and approval of the Auditor-General as required by Section 39 of the Public Audit Act, 2003.

Although the management of the Secretariat has already been summoned and appeared before the Public Accounts Committee of the National Assembly over this matter, and the Committee directed the management to comply with the law and submit all records, documents and information together with financial statements for all the years since inception, the management has not heeded the directive. The position, therefore, remains as reported in the FY 2013/2014.

Submission by Accounting Officer

The Accounting Officer in his submission stated that the Public Accounts Committee is handling the matter and undertook to summon the Principal Secretaries of the State Departments constituting the Inter-Ministerial Committee that was providing oversight for ASCU to provide response by Accounting Officers to the outstanding issue on ASCU. The Project coordinator has to date not availed the Financial Statements for audit as instructed by the Public Accounts Committee.

Committee Observations and Findings

1. **The Accounting Officers of the State Departments constituting the Inter-Ministerial Committee that is providing oversight for ASCU have failed to submit audited**

accounts and financial statement to the Auditor-General in contravention of the provisions of Article 229 of the Constitution of Kenya, 2010;

2. **The Accounting Officers of the State Departments constituting the Inter-Ministerial Committee for ASCU failed to heed previous directive of the PAC to ensure that ASCU books and financial statements are submitted to the Auditor-General; and**
3. **The ASCU project coordinator has to date not availed the financial statements for audit as previously instructed by the Public Accounts Committee. Further, the ASCU has gone ahead and appointed M/s Deloitte & Touché (a private auditor) to audit the project without approval of the Auditor-General as provided for in Section 23 of the Public Audit Act No, 34 of 2015.**

Committee Recommendatios

Accounting Officers must at all times ensure that all donor funds are accounted and reported in accordance with the guidelines set out in the PFM Act, 2012.

422. AGRICULTURAL INFORMATION RESOURCE CENTRE

Basis for Qualified Opinion

The statement of financial position reflects receivables from non-exchange transactions balance of Ksh. 21,172,802.00 which includes amounts owing from other debtors of Ksh. 2,900,750.00. These debts relate to the period between November 1993 and November 2013, and no explanation has been provided for the failure to recover the long outstanding debts. Any provision that would have been necessary in relation to this uncertainty has not been incorporated in the financial statements.

Submission by Accounting Officer

The Accounting Officer in his submission stated that it was true that the financial position reflects receivables from non-exchange transactions balance of Ksh. 21,172,802.00 which includes amount owing from other debtors of Ksh. 2,900,750.00. These debts relate to the period between November 1993 and November 2013. He further stated that the State Department have embarked on debt collection exercise from the government agencies by writing of demands notice. This can be demonstrated by the amount of debtors outstanding by the year ending June 2016. He attached in his submission a copy of financial position at 30th June 2016 and a summary of debtors of the year ended June 30th 2016.

Committee Observations and Findings

1. **The Agricultural Resource Information Centre in its audit book have amount owing from other debtors of Ksh. 2,900,750.00 that dates back to the period November 1993 and November 2013; and**

2. **These long outstanding debts are recoverable and the State Department have embarked on debt collection exercise from the government agencies by writing of demands notice.**

Committee Recommendation

The Accounting should ensure that all debts owed to Agricultural Resource Information Centre is fully recovered in line with Regulation 83(2g) of the PFM (National Government) Regulations 2015 that requires Accounting to pursue debtors with appropriate sensitivity and rigor to ensure that amounts receivable by the government are collected and banked promptly.

DEMONSTRATION FARMS FUND

Basis for Qualified Opinion

Winding Up of the Fund

The Fund has continued to record a declining financial performance over the last three financial years as shown below: -

Item	**2014/2015**	**2013/2014**	**2012/2013**
Total Receipts	1,504,494.00	87,375,469.00	143,872,993.00
Total payments	1,001.00	212,952,974.00	106,288,671.00
Surplus/ (deficit)	1,503,493.00	(125,577,505.00)	37,584,322.00
Bank balances	124,401,242.00	122,897,749.00	249,543,365.00

This state of affairs is attributed to the issue of devolved functions of the Fund, as a result of which, all activities of Agricultural Training Centres (ATCs), which are the mainstay of the Fund, were taken over by County Governments. The County Governments took over all the assets and other functions, including: land, buildings, plant, machinery, bank balances and revenue streams of their respective ATCs, leaving the Ministry without any activities. Although information available indicates that the process of winding up the Fund has been commenced, no explanation has been given for failing to fast track it, in order to facilitate a formal handing over of the assets and liabilities of the Fund to the Counties.

Submission by Accounting Officer

The Accounting Officer in his submission stated that the DFF fund closed on 28th /4/2014. All assets and liabilities were handed over to the respective county Governments. The fund winding up process started last year with the request to the National Treasury for guidance. The Department is waiting for the guidance.

Committee Observations and Findings

1. **The Demonstration Farm Fund (DFF) fund closed on 28th /4/2014 and all its assets and liabilities were handed over to the respective county Governments; and**
2. **The fund winding up process started last year 2017 with the request to the National Treasury for guidance.**

Committee Recommendation

1. **The Cabinet Secretary for the National Treasury should immediately commence the winding up process of this Fund pursuant to Regulation 209 of the PFM (National Government) Regulations 2015.**
2. **The Cabinet Secretary for the National Treasury should within six (6) months after adoption of this report submit a report to Parliament and the Auditor-General for audit in line with Regulation 209(3) of the PFM (National Government) Regulations 2015.**

STRATEGIC GRAIN RESERVE FUND

Basis for Adverse Opinion

423. Financial Performance

As reported in the previous years, the Fund incurred a net deficit of Ksh. 1,284,297,766.00 bringing the accumulated deficit to Ksh. 12,953,812,480.00 as at 30th June 2015. The continued loss-making trend has been attributed to the multiplicity of expenses including costs of acquisition of maize and gunny bags, storage and fumigation, handling costs, agency fees and commissions charged by National Cereals and Produce Board (NCPB) as

Management fees on behalf of the Ministry over the years. This indicates the existence of a material uncertainty which may cast significant doubt about the ability of the Fund to continue as a going concern. Consequently, the sustainability of the Fund is entirely dependent on the continued disbursement of grants by the Government.

Submission by Accounting Officer

It was true that the Fund shows an accumulated deficit of Kshs.12,953,812,480.00 due which is attributed to the multiplicity of expenses including cost of acquisition of maize and gunny bags, storage and fumigation, agency fees and commission charged by National Cereals and Produce Board (NCPB).

The deficit is as a result of buying the maize at higher costs and selling at subsidized prices during the period of short supply of maize in the country.

The government reviewed the Agency Agreement with National Cereals and Produce Board (NCPB) in order to reduce the multiplicity of the expenses charged by the NCPB.

To further streamline the management of the Fund, the Government established the Strategic Food Reserve Fund Oversight Board through Legal Notice No. 15 of 2015 to oversee the Strategic Food Reserve Fund.

Committee Observations and Findings

1. **The Strategic Grain Reserve Fund incurred a net deficit of Ksh. 1,284,297,766.00 bringing the accumulated deficit to Ksh. 12,953,812,480.00 as at 30th June 2015which was attributed to the multiplicity of expenses including cost of acquisition of maize and gunny bags, storage and fumigation, agency fees and commission charged by National Cereals and Produce Board (NCPB).**
2. **The Government has reviewed the Agency Agreement with the NCPB in order to reduce the multiplicity of expenses charged by the NCP. Further, through the PFM (Strategic Food Reserve Trust Fund) Regulations 2015 under Legal Notice No. 15 of 2015, the Government has transformed the Strategic Grain Reserve Fund to Strategic Food Reserve Fund which is now overseen by an oversight Board.**
3. **The general object and purpose for which the Fund is established is to provide Strategic Food Reserve in physical stock and cash equivalent and specifically to among other, stabilize the food supply and prices in the country. Sustainablity of the Fund is entirely dependent on the continued disbursement of grants by the Government through annual appropriation by Parliament as provided for in Regulation 6 of the the PFM (Strategic Food Reserve Trust Fund) Regulations 2015.**

Committee Recommendation

The Accounting Officer and the Oversight Board of the Fund should ensure that the Fund achieve its strategic objectives particularly stabilization of the food supply and prices in the country andmaintaining adequate strategic food reserves in physical stock to ensure value for annual money appropriated by Parliament.

424. Agency Agreement

As noted in the audit report of the financial year ended 30th June 2014, the current 6th Agency Agreement between the Ministry and National Cereals and Produce Board, which outlines the terms of engagement between the two parties, and which runs from 1st July 2013 to 30th June 2016, has still not been signed by the parties. Consequently, any contracts entered into and transactions carried out between the two parties may not be enforceable in law.

Submission by Accounting Officer

The Accounting Officer in his submission stated that it was true that the Agency Agreement between the Trustees of the Fund and National Cereals and Produce Board for the period including FY 2014/2015 financial year had not been signed. During the period the Trustees were still negotiating with NCPB on lowering the Agency Commission rates. However, the agreement was that the previous signed Agency Agreement be in force until they had settled on agreeable commissions. During the 2015/16 financial year, the Agency Agreement was signed attached in the submission by the Accounting Officer.

Committee Observations and Findings

1. **There was delays in signing the agency agreement between the Trustees of the Fund and National Cereals and Produce Board for the period the FY 2014/2015 which was occasioned by negotiating with NCPB on lowering the Agency Commission rates; and**
2. **The agency agreement was subsequently signed during the FY 2015/2016**

Committee Recommendation

The Accounting Officers should ensure that agency agreements are signed in time and that the existing agreements provides for a transition clause to protect contractual agreements entered into during new agency agreement negotiations.

425. Receivables

The receivables balance of Ksh. 7,258,988,608.00 reflected in the statement of financial position as at 30th June 2015 has not been supported with details and breakdown of individual debts and services rendered or any documentary evidence to support the balance. It was therefore not possible to confirm the accuracy, valuation and completeness of the receivables balance of Ksh. 7,258,988,608.00.

Submission by Accounting Officer

The Accounting Officer in his submission confirmed that it was true that the statement of financial position reflects balance of Ksh. 7,258,988,608.00 under receivables. The balances comprise debtors' equivalent Ksh. 6,865,220,613.00 brought forward from the financial year 2012/2013 from State for Special Programmes.

Committee Observations and Findings

The receivables balance of Ksh. 7,258,988,608.00 reflected in the statement of financial position as at 30th June 2015 was not supported with details and breakdown of individual debts and services rendered or any documentary evidence to support the balance.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct 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.

426. Inventories

426.1 Obsolete and Unfit Stock of Maize

Records maintained at various depots of National Cereals and Produce Board, the custodian of strategic grains on behalf of the Ministry, indicate that some strategic maize has been infested by weevils and damaged beyond human consumption.

A review of quality assurance reports revealed that Celphos, the Board's preferred fumigation chemical has failed to kill the weevils and is therefore no longer effective, as the insects appear to have developed immunity against the chemical. Information available further indicates that although most stations (depots) had requested for a change of the chemical, the Board has not come up with an alternative. Consequently, 754,015 bags of maize, valued at Ksh. 1,772,055,670.00 that were found to have been damaged beyond the 2.5percent acceptable limit, are not fit for human consumption.

Submission by Accounting Officer

The Accounting Officer in his submission stated that:

1. **Historical Background**

Most of the maize affected with high insect damage are in Lake/Western Region and were purchased during 2007/2008 season and transferred to the affected depots during the 2008/2009 season, hence have been held in our stores for a period of over 7 years.

During the long storage period, the stocks have been continuously exposed to repeated infestation. The problem of pest infestation was aggravated by the Erad court case where all the Board vehicles were being targeted by auctioneers and no fumigation was carried for the period the orders to auction Boards assets were active in 2013.

When the issue of high pest infestation was raised, management carried out quality inspections in the affected region in February 2011. The findings were as follows.

i) The extent of insect damage was mostly below 10 percent and was concentrated on the bags at the periphery of the stacks.

ii) The high insect damaged was caused by: Prolonged storage of maize dating to 2008/2009 leading to weakening of peripheral bags; the use of insufficient as well as old fumigation sheets and the use of Celphos fumigant which was not very effective.

2. **Action Taken by Management**

i) The problem of fumigation sheets was addressed in 2011 by procurement of 140 pieces of fumigation sheets. The issue of Celphos fumigant was addressed by Management as follows: The field pest control officers were asked to give their own assessment on the performance of Celphos brand in comparison with other similar brands they have used before;

ii) The pest control officers indicated that Gastoxin and Detia brands were better than celphos brand because re-infestation occur after an average 2 months instead of 3 months in other brands;

iii) The poor performance of the product was communicated to Pest Control Products Board (PCPB) on 21st February 2011 of which they responded vide their letter ref: PCPB/111/REG/Vol. 1/11/62 dated 1st March 2011;

iv) Twiga Chemical Industries Ltd the supplier of Celphos brand wrote a letter to Management refuting the poor performance of their products;

v) Given that the product has been registered by PCPB in Kenya with similar technical specification as having 57 percent active ingredient and offered at very competitive price, a meeting was convened to discuss poor performance of celphos brand and chart the way forwards 2nd June 2011;

vi) Meanwhile the pest control officers were guided to increase the dosage from 3 tablets per ton to 4 tablets as a remedial measure and also assess the performance;

vii) It was recommended in the meeting that an independent analysis be undertaken. The University of Nairobi's Chemical and Industrial Consultancy Unit was contracted to carry out the independent efficacy tests on celphos, gastoxin and detia for comparison;

viii) The results from the chemical test by University of Nairobi indicated that Gastoxin was better fumigant than celphos and detia.(Report dated 22nd May 2013);

ix) A meeting was arranged and held on 18th June 2014 between NCPB and the manufacturer of Celphos fumigant, M/S Excel Crop Care ltd, to discuss the poor performance of their product;

x) Following the discussion management made a decision to discontinue the procurement and use of celphos fumigant and pursued other brands like gastoxin in July 2014.

Management recommended to the SGR Trustees the sale of the old maize. The Trustees were slow in granting the authority and the quantities authorized were always below the quantity requested. The approval for disposal/sale was granted as follows;

i) In 2012, 300,000 bags.

ii) In 2013, 451,102 bags

iii) Approval for 867,988 bags was sought but delayed but finally 500,000 bags were approved in June 2014 but were processed through open tender which delayed it further. However, the approval was finally granted in July 2014 when the market was already saturated with a lot of maize from the neighboring countries.

iv) Authority of another lot of 2,404,923 bags x 90 Kgs comprising maize older than 2 years was granted by SFR Oversight Board in September 2015. Sale is ongoing and is nearing completion.

It was clear that while procurement of effective chemicals in a timely manner is a factor that has immense effect on the maintenance of grain quality, the other areas that have received attention so as to reduce losses are;

i) Grain in conventional stores should be refreshed through sale at least within twenty-four (24) months.

ii) Grain stored in the silos should be moved out within six (6) months

iii) Procurement of effective brands of fumigants has been initiated and now being adhered to and all stock are being fumigated as scheduled or when due.

Committee Observations and Findings

1. **The 754,015 bags of maize, valued at Ksh. 1,772,055,670 that were found to have been damaged beyond the 2.5percent acceptable limit, are not fit for human consumption;**
2. **The Accounting Officer and the management of the NCPB took some action to remedy the situation. However, this was too little too late as the public had already lost approximately Ksh. 1.77 billion; and**
3. **The Management recommended to the SGR Trustees the sale of the old maize. However, the Trustees were slow in granting the authority and the quantities authorized were always below the quantity requested**

Committee Recommendation

The SGR/SFR Trustees who served during the period should be held jointly liable for their failure/slow action to grant authority to the management to sale off the maize which were in stores in time leading to loss of public funds to the tune of approximately Ksh. 1.77 billion.

426.2 Unsupported Balance

The statement of financial position reflects an inventories balance of Ksh. 12,564,726,688.00 which, according to Note 7, comprises stocks of maize valued at Ksh. 12,561,675,316.00 and gunny bags valued at Ksh. 3,051,372.00. However, no documentary evidence, including annual stock taking records, was availed to support the balance. Consequently, it was not possible to confirm that the carrying value of inventories figure of Ksh. 12,564,726,688.00 as stated in the financial statements reflect the fair values of the inventories as at 30th June 2015.

Submission by Accounting Officer

The Accounting Officer in his submission herein attached as annex … confirmed that it was true that the statement of financial position reflects an inventory of Ksh. 12,564,726,688 comprising of stocks of maize valued at Ksh. 12,561,675,316 and gunny bags valued at Kshs. 3,051,372 respectively. He attached as appendix 10 to his submission the stock ledgers for SFR stocks. The annual stock taking sheets are however very bulky but are available at NCPB for verification.

Committee Observations and Findings

1. **The statement of financial position reflects an inventory of Ksh. 12,564,726,688 comprising of stocks of maize valued at Ksh. 12,561,675,316 and gunny bags valued at Ksh. 3,051,372 respectively; and**
2. **The stock ledgers for SFR stocks provided by the Accounting Officer was not availed to the auditors at the time of audit. Further, the submission by the Accounting Officer that the annual stock taking sheets are very bulky but are available at NCPB for verification was not convincing to the Committee since he failed to facilitate the auditors to access them at the time of audit.**

Committee Recommendation

1. **The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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; and**
2. **The Accounting Officer should at all times in line with Section 9 of the Public Audit Act 2015 provide unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities and any property or premises used or held by State Organs or public entities covered by Article 229 (4) of the Constitution of Kenya 2010**

427. Trade and Other Payables

427.1 Accuracy of the Balance

The trade and other payables balance of Ksh. 1,885,262,704.00 as reflected in the statement of financial position differs with the supporting schedules figure of Ksh. 1,950,973,069.00 by an unsupported and unreconciled difference of Ksh. 65,710,365.00.

Submission by Accounting Officer

The Accounting Officer in his submission herein attached as annex … confirmed that it was true that the statement of financial position reflects a trade and other payables balance of Ksh. 1,885,262,704.00 while supporting schedules and other records reflect a balance of Ksh. 1,950,973,069.00 giving rise to a difference of Ksh. 65, 710,365.00. This amount comprises a disputed balance between the Ministry and National Cereals and Produce Board.

Committee Observations and Findings

Trade and other payables balance of Ksh. 1,885,262,704.00 while supporting schedules and other records reflect a balance of Ksh. 1,950,973,069.00 giving rise to a difference of Ksh. 65, 710,365.00 attributed to a disputed balance between the Ministry and National Cereals and Produce Board.

Committee Recommendation

The Accounting Officer and the Management of the NCPB should reconcile their books and settled the disputed figure of Ksh. 65, 710,365.00 attributed to a disputed balance between the Ministry and National Cereals and Produce Board.

427.2 Disputed Balances

As reported in the previous year's report, trade and other payables balance of Ksh. 1,885,262,704.00 as at 30 June 2015 includes payables amounting to Ksh. 354,294,814.00 reported to be under dispute. The nature of the dispute has not been disclosed and no evidence had been adduced to confirm any efforts being made to resolve the said dispute. Consequently, the trade and other payables balance of Ksh. 1,885,262,704.00 as at 30th June 2015 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer in his submission confirmed that it was true that the trade and other payables balance includes payables amounting to Kshs.354, 294,814.10, which comprise the following;

	Old debts	**Kshs.**
i.	Costs of reserved capacity	127,807,949.00
ii.	Interest on delayed payments	47,952,878.00
iii.	Wheat market intervention account	178,533,987.10
	Total Disputed debts	**354,294,814.10**

Further, a Committee was constituted comprising officers from the Ministry of Agriculture, Livestock and Fisheries, Ministry of Devolution & Planning, The National Treasury and National Cereals and Produce Board to scrutinize all NCPB claims for verification. However, the final report had not been approved to allow for implementation of the recommendations.

Committee Observations and Findings

1. **Trade and other payables balance of Ksh. 1,885,262,704.00 as at 30 June 2015 includes payables amounting to Ksh. 354,294,814.00 reported to be under dispute between the Ministry and NCPB;**
2. **The nature of the dispute was not disclosed to the auditors at the time of audit. However, the Committee noted that the dispute was on: costs of reserved capacity Ksh. 127,807,949.00; interest on delayed payments Ksh. 47,952,878.00; and wheat market intervention account Ksh. 178,533,987.10; and**
3. **Committee was constituted comprising officers from the Ministry of Agriculture, Livestock and Fisheries, Ministry of Devolution & Planning, the National Treasury and NCPB to scrutinize all NCPB claims for verification. However, the final report had not been approved to allow for implementation of the recommendations.**

Committee Recommendation

The Accounting Officer should within three (3) months of tabling of this report follow up on the final report of the Committee and ensure that there is implementation of the recommendations.

428. Accuracy of the Financial Statements

The statement of financial position reflects a net assets balance of Ksh. 18,025,598,611.00 and a net reserves balance of Ksh. 17,936,460,683.00, hence a variance of Ksh. 89,137,928.00. No explanation or reconciliation was provided for the variance.

Submission by Accounting Officer

The Accounting Officer in his submission herein attached as annex … confirmed that it was true that the statement of financial position reflected a net assets balance of Kshs. 18,025,598,611.00 and a net reserves balance of Kshs. 17,936,460,683.00. This was occasioned by arithmetical error which was corrected in the subsequent financial statements.

Committee Observations nd Findings

The statement of financial position reflects a net assets balance of Ksh. 18,025,598,611.00 and a net reserves balance of Ksh. 17,936,460,683.00, hence a variance of Ksh. 89,137,928.00 which was attributed to an arithmetical error which was corrected in subsequent years.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records devoid of errors and in compliance with provisions of Section 68(2) of the PFM Act 2012 and that the 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.

Other Matter

429. Records maintained by the project indicate that various ICT items belonging to the Project valued at Kshs. 4,967,895.00 were stolen as a result of break-ins in several County offices, as follows:

County	Items	Stolen Value(Kshs)
Machakos	Various	340,000.00
Bungoma	Various	536,500.00
Vihiga	Various	291,000.00
Meru	Various	487,000.00
Taita Taveta	Various	275,000.00
Kajiado	Various	420,700.00
Nyamira	Various	282,000.00
Nakuru	Various	376,000.00
Elgeyo Marakwet	Various	110,000.00
Kisii	Various	508,700.00
Kericho	Various	310,000.00
Kwale	Various	370,200.00
Tharaka Nithi	Various	150,800.00
Uasin Gishu	Various	210,000.00
Baringo	Various	193,995.00
Kirinyaga	Various	106,000.00
		4,967,895.00

Although reports on the theft were duly and promptly made to the Accounting Officer, the respective County security agencies, including County Commissioners, and the police from where police abstracts were obtained, no indication has been given on any steps taken to enhance security in all the County offices across the country to forestall a recurrence of further incidents of theft. My opinion is not qualified in respect of this matter.

Submission by Accounting Officer

The Accounting Officer in his submission herein attached as annex … confirmed that it was true that, ICT items worth Ksh. 4,967,895 were stolen. The management has been following with the police and relevant bodies, however to date no assets has been recovered. The County Commissioner and the police has intensified the security in the counties, because to date no incidence of theft has been reported. The status to date is as tabulated below:

County	**Items Stolen**	**Value (Kshs)**	**Status To Date**
Machakos	Various	340,000	Not Yet recovered
Bungoma	Various	536,500	Not Yet recovered
Vihiga	Various	291,000	Not Yet recovered
Meru	Various	487,000	Not Yet recovered
TaitaTaveta	Various	275,000	Not Yet recovered
Kajiado	Various	420,700	Not Yet recovered
Nyamira	Various	282,000	Not Yet recovered
Nakuru	Various	376,000	Not Yet recovered
ElegeyoMarakwet	Various	110,000	Not Yet recovered
Kisii	Various	508,700	Not Yet recovered
Kericho	Various	310,000	Not Yet recovered
Kwale	Various	370,200	Not Yet recovered
TharakanNithi	Various	150,800	Not Yet recovered
UasinGishu	Various	210,000	Not Yet recovered
Baringo	Various	193,995	Not Yet recovered
Kirinyaga	Various	106,000	Not Yet recovered
TOTAL		**4,967,895**	

Committee Observations and Findings

1. **The Committee finds it perplexing that ICT items worth Ksh. 4,967,895 were simultaneously stolen in County Offices spread out the Country; and**
2. **Although reports on the theft were duly and promptly made to the Accounting Officer, the respective County security agencies, including County Commissioners, and the police from where police abstracts were obtained, the Committee was not convinced that this was not a normal break-in.**

Committee Recommendation

1. **The Accounting Officer should ensure that the county offices are fully protected and security enhanced to protect public assets; and**
2. **The Director, Criminal Investigation (DCI) should within three (3) months after tabling of this report take over this matter and report back to National Assembly on its progress.**

KENYA CEREAL ENHANCEMENT PROGRAMME - GRANT NUMBER 2000000623

Basis for Qualified Opinion

430. Low Absorption and Utilization of Funds

The financial statements indicate that out of the total available funds of Ksh. 198,455,600.00 as at 30th June 2015, only Ksh. 26,220,181.00 (or 13 percent) was so far utilized, fifteen (15) months after inception of the Programme. No explanation has been provided for the low absorption and utilization of funds which raises doubts on whether the activities of the Programme will be completed by 31 December 2017, when the Programme is scheduled to be completed.

Submission by the Accounting Officer

The Accounting Officer in his submission herein attached as annex … confirmed that it was true that in the approved KCEP Annual Work-Plan and Budget and the Procurement Plan, the Programme had envisaged procurement of major Programme assets like Vehicles, Office furniture and equipment as well as consultancies. This did not take place due to the lengthy procurement process and given that the Programme operated only five (5) months (February to June 2015) within that Financial Year. The Procurements of these items were done in the subsequent Financial Year. The Programme had also planned to recruit Senior Technical Staff who were to be on board by May 2015 but this was delayed until September 2016. This is therefore further reduced the funds absorption.

Committee Observations and Findings

1. **The total available funds of Ksh. 198,455,600.00 as at 30th June 2015 for the programme was not utilized. only Ksh. 26,220,181.00 (or 13 percent) was so far utilized, fifteen (15) months after inception of the Programme; and**
2. **The delay in utilizations of the funds was attributed to various factors including lengthy procurement process and delays in recruitment of Senior Technical Staff who were to be on board by May 2015 but was delayed until September 2016**

Committee Recommendation

The Accounting Officer should ensure that the programme fully takes off and funds utilized in accordance with the laws.

431. Compensation of Employees

The statement of receipts and payments reflects total expenditure of Kshs. 26,220,181.00 out of which, Kshs. 19,303,507.00 (about 74%) was incurred onpersonal emoluments for staff while the balance of Kshs. 6,916,674.00 (or 26%) was utilized on purchase of goods and services. No reason or justification has been provided for giving more emphasis on personal emoluments for almost no work done and less emphasis on the core activities of the Programme. Consequently, value for money was not obtained from the total expenditure during the year towards achieving the core objective for which the Programme was initiated

Submission by Accounting Officer

The Accounting Officer in his submission herein attached as annex … confirmed that it was true that the Programme staff reported in January 2015 and the immediate tasks were the preparation of the 1st year's Annual Work-plan and Budget as well as the Procurement plan. These documents had to be approved by the Project Steering Committee (PSC) and IFAD (the supervisor of the Programme) before implementation would start. The Programme Design Report also provides for Programme implementation through Partners that were to be brought on board through Subsidiary Agreements (SAs). The processing of the SAs took time to finalize as they had to be cleared by the parent Ministry, State Law office and The National Treasury.

Implementation of the activities would therefore not commence until all the structures were in place but in the meantime the staff who were in the office had to be paid as they worked on the documents and structures to roll out of the Programme.

Committee Observations and Findings

1. **The Programme staff reported in January 2015 and the immediate tasks were the preparation of the 1st year's Annual Work-plan and Budget as well as the Procurement plan. These documents had to be approved by the Project Steering Committee (PSC) and IFAD (the supervisor of the Programme) before implementation would start. The Programme Design Report also provides for**

Programme implementation through Partners that were to be brought on board through Subsidiary Agreements (SAs). The processing of the SAs took time to finalize as they had to be cleared by the parent Ministry, State Law office and The National Treasury.

2. **Implementation of the activities would therefore not commence until all the structures were in place but in the meantime the staff who were in the office had to be paid as they worked on the documents and structures to roll out of the Programme.**

Committee Recommendation

The Accounting Officer should ensure that the programme fully takes off and funds utilized in accordance with the laws.

RICE-BASED MARKET-ORIENTED AGRICULTURE PROMOTION PROJECT

Basis for Disclaimer of Opinion

432. Late Submission of Project Financial Statements

The financial statements of Rice-Based Market-Oriented Agriculture Promotion Project were submitted for audit on 2 November 2015, two months after the statutory deadline date of 30th September 2015. The project, therefore, is in contravention of the law.

Submission by Accounting Officer

The Accounting Officer in his submission stated that rice MAPP phase 1 was a five year project whose implementations period was February 2012 to March 2017. The project was provided with adequate office space at MIAD center for the period 2012-2014 (without an office). Absence of an office therefore was not a hindrance to implementation of its activities, some of which are below;

i) 16th August 2010, project financial agreement and JICA technical cooperation application.

ii) January 2012- Acceptance of technical experts by the Government of Kenya and dispatch of GoK staff to the project.

iii) February 2012-Inaugural meeting in Nairobi and subsequent beginning of implementation of the project activities in Mwea Irrigation Scheme.

iv) July 2012- Baseline survey in Mwea Irrigation scheme and subsequent mobilization of farmers for the beginning of on-farm demonstrations.

v) 2013- Receipt and allocation of 2KR machines (15 tractors, 16 combine harvesters, 52 threshers and 22 rice reapers).

vi) 2014 - Inception of WSRC technology and setting up of demonstration which continued till 2017. The project office was also constructed during the same year.

vii) 2016 setting up of on-farm demonstration in Ahero and West Kano scheme as part of the project goal of disseminating WSRC to other areas.

viii) 2017 March- end of the first phase of the project.

The project had other activities throughout the period.

Committee Observation and Finding

The financial statements of Rice-Based Market-Oriented Agriculture Promotion Project were submitted for audit on 2 November 2015, two months after the statutory deadline date of 30th September 2015;

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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;

433. Slow Pace of Project Implementation and Low Absorption of Funds

The Financing Agreement reflects the project's entry date of 16 August 2010 while Section 1.2 of the Project Information and Overall Performance in the financial statements indicate a start date of 1 February 2012. However, no activities were implemented until July 2014, when the construction of the Project administration block commenced in Mwea, Kirinyaga County, at a cost of Kshs.34, 944,965.00. Further, the Project has only 21 months remaining to close the five (5) year Project. No explanation has been provided for failing to commence the Project promptly as a result of which, the objectives for which the Project was started may not be achieved before the Project closes.

Submission by Accounting Officer

The Accounting Officer in his submission stated that the financial expenditure of Ksh. 34,944,965.00 refers to an amount which was never disbursed to RiceMAPP nor spent by riceMAPP. However, an office was constructed for RiceMAPP project at MIAD center. The bidding, tendering, supervision and payments were actualized by the Ministry of Agriculture, Livestock and Fisheries Nairobi (Headquarters).

Committee Observation and Finding

There was delay in the start of implementation of the project which was to start on 1st February 2012 but started in July 2014 when the construction of the project administration block commenced in Mwea, Kirinyaga County, at a cost of Kshs.34, 944,965.00.

Committee Recommendation

The Accounting Officers should ensure that projects implementations are commenced at the stipulated dates to avoid cost and time overruns which distorts the achievement of the desired projects objectives and leads wastage of public resources.

434. Ineligible Expenditure

The Projects total expenditure of Kshs.34, 944,965.00 reflected in the financial statements was not supported with relevant documentary evidence. Consequently, it was not possible to confirm whether the carrying costs of civil works as stated in the financial statements reflect the fair value of the expenditure as at 30 June 2015

Submission by Accounting Officer

The Accounting Officer in his submission stated that the financial expenditure of Kshs 34,944,965.00 refers to an amount which was never disbursed to RiceMAPP nor spent by riceMAPP. However, an office was constructed for RiceMAPP project at MIAD center. The bidding, tendering, supervision and payments were actualized by the Ministry of Agriculture, Livestock and Fisheries Nairobi (Headquarters).

Committee Observations and Findings

1. **The Projects total expenditure of Kshs.34, 944,965.00 reflected in the financial statements was not supported with relevant documentary evidence. However, the Accounting Officer informed the Committee that the expenditure was for amount which was used for construction of RiceMAPP project Office at MIAD center; and**
2. **The bidding, tendering, supervision and payments were actualized by the Ministry of Agriculture, Livestock and Fisheries Nairobi in Nairobi Headquarters.**

Committee Recommendation

The Accounting Officer should within three (3) of tabling this report avail for audit review all records of procurement transactions for the construction of project office at the Ministry's Headquarters.

435. Unconfirmed Receipts

The Project has been operating since inception without maintaining proper books of account as required by the Public Audit Act, 2003 and the Public Finance Management Act, 2012. This made it impossible to establish and verify the sums of money received and expenditure incurred on account of the Project and the assets and liabilities of the Project for the period up to 30 June 2015.

Submission by Accounting Officer

The Accounting Officer in his submission the project has always operated and maintained an account, District Accountant, Kirinyaga North, at Equity Bank, Kagio. During the period, the project operated an account was inclusive for the District Agricultural Officer, District Livestock Production Officer, District Veterinary officer and RiceMAPP. The account was under the District Treasury Kirinyaga North. It was therefore not an illegal account.

Committee Observations and Findings

1. **The Accounting Officer failed to ensure that proper books of account were maintainedfor the project asstipulated in Section 68 of the PFM 2012 and Regulation 100 of the PFM (National Government) Regulations 2015 by the Public Audit Act, 2003 and the Public Finance Management Act, 2012; and**
2. **Failure to maintain proper books of accounts for the projects made it impossible to establish and verify the sums of money received and expenditure incurred on account of the project and the assets and liabilities of the Project for the period up to 30 June 2015.**

Committee Recommendations

3. **The erstwhile Accounting, Ms. Sicilly Kariuki be held responsible for failure to ensure that proper books of accounts for the projects are maintained pursuant to the provisions of Section 68 of the PFM 2012 and Regulation 100 of the PFM (National Government) Regulations 2015 by the Public Audit Act, 2003 and the Public Finance Management Act, 2012; and**
4. **The Accounting ensures that proper books of accounts for the projects since its inception to date are prepared and submitted to the Auditor-General within three (3) of tabling of this report.**

STRENGTHENING FERTILIZER QUALITY AND REGULATORY STANDARDS IN KENYA PROJECT - GRANT NUMBER: 2013 SHIP 001

Basis for Qualified Opinion

436. Under-Utilization of Funds

Although the project had an approved Work Plan for 2014/2015 of Kshs.25, 193,405.00 for various activities, and although the donor disbursed the required funds for all the activities in the Work Plan, the project expended only Kshs.586, 000.00 (about 2 percent of the funds) during the year: Kshs.260, 000.00 on launching the project, Kshs.15, 000.00 on business cards and Kshs.311, 000.00 on imprest. Further, despite the availability of funds, the total expenditure of Kshs.586, 000.00 was not settled during the year but was carried forward to 2015/2016 No explanation has been provided for failing to utilize all the available funds to carry out project activities as indicated in the approved Work Plan, or even for failing to settle the expenditure of Kshs.586, 000.00 incurred during the year.

Submission by Accounting Officer

There was no submission given for this paragraph

Other Matter

437. Other Grants and Transfers

Included in the payments figure of Kshs. 791,538,355 as at 30 June 2015 are other grants and transfers amounting to Kshs. 169,080,027 comprising of expenditures of Kshs. 35,029,984 and Kshs. 134,050,043 in respect of transfers to other government agencies and other grants and transfers and payments respectively which could not be verified due to limited resources. In the circumstances, it is not possible to confirm whether the expenditures were incurred for the intended purposes. My opinion is not qualified in respect of this matter.

Submission by Accounting Officer

The Accounting Officer in his submission stated that it is true that the observation regarding the transfers of funds to the counties and how it was utilized was made by the Auditor General during finalization of 2014-2015 F.Y. audit report. The Auditor General constituted a team to go round the counties to confirm whether the fund was spent as per the intended purposes.

The team carried out the exercise and issued the report that the funds were actually spent as per the intended purposes based on the opinion issued for the same. It was in these circumstances that I would like to state that the issue was actually resolved.

Committee Observations and Findings

1. **The Auditor General constituted a team to go round the counties to confirm whether the fund was spent as per the intended purposes.**
2. **The team carried out the exercise and issued the report that the funds were actually spent as per the intended purposes based on the opinion issued for the same.**

Emphasis of Matter

438. Other Grants, Transfers and Payments

I draw attention to Note 8.7 to the financial statements which describes other grants and transfers and payments amounting to Kshs. 435,285,214.23, comprising expenditures of Kshs. 140,630,113.85, Kshs.272,168,283.23 and Kshs.22,486,817.15 in respect of Research grants, Farmer grants and Community Energy grants respectively which could not be verified due to limited resources. In the circumstances, it is not possible to confirm whether the expenditures were incurred for the intended purposes. My opinion is not qualified in respect to this matter.

Submission by Accounting Officer

The Accounting Officer in his submission admitted that the statement of financial position reflects a cash and cash equivalents balance of Kshs. 2,588,782,991 as at 30 June 2016, which differs with the cash book balance of Kshs. 2,492,901,822 by Kshs. 95,881,169. The resultant difference was due to payments that had not been paid in the bank by close of business on 30th June 2016 as analyzed below:

	Payee	**Amount**
1	National Cereals and Produce Board	1,112,460.20
2	National Cereals and Produce Board	3,333,159.15
3	National Cereals and Produce Board	4,749,577.10
4	National Cereals and Produce Board	5,275,854.00
5	National Cereals and Produce Board	6,062,038.80
6	National Cereals and Produce Board	9,228,298.80
7	National Cereals and Produce Board	10,494,601.20
8	National Cereals and Produce Board	12,461,392.80
9	National Cereals and Produce Board	13,385,137.90
10	National Cereals and Produce Board	13,394,500.00
11	National Cereals and Produce Board	15,901,749.25
12	SFR Board Facilitation	282,400.00
	Total	**95,881,169.20**

A board of survey report has been provided for audit review.

He submitted that Payment of Kshs. 6,000,000 made to a local freight firm was made at National Cereals and Produce Board and does not appear in the Strategic Food Reserve Cash Book. He noted that payment voucher number 54A4072314 through cheque number 001471 was paid to M/S Mitchel Cotts Freight Kenya Limited on 21st January 2016 for gunny bags supplied as per the NCPB Credit Purchase Advice No. 14A4023820 and 14A4024119 of 36,300 pieces. The supplier M/S Blue Horizon Properties Limited did a request for partial payment of Kshs. 6,000,000.00 (Six Million) and the balance to be paid to their bank account through their letter dated 14th December 2015.

Committee Observations and Findings

The statement of financial position reflects a cash and cash equivalents balance of Kshs. 2,588,782,991 as at 30 June 2016, which differs with the cash book balance of Kshs. 2,492,901,822 by Kshs. 95,881,169. The resultant difference was due to payments that had not been paid in the bank by close of business on 30th June 2016

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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 2

27.2. STATE DEPARTMENT OF LIVESTOCK

FINANCIAL STATEMENTS FOR VOTE 153

Mr. Harry Kimtai, the Accounting Officer State Department of Livestock accompanied byMs. Lorna Odero, Director of Administration; Mr. Joseph Mwangi Kamau; Principal Finance Officer, Mr Julius Kiptarus; Director Livestock, Ms. Penninah W. Ndirangu; Principal Accountant, Mr. Julia Kinywa; Deputy Director Veterinary Services, Mr. Kiptoo Bett;Project Financial Accountant, Mr. William Koech; SDL-HRM, Mr. James Citro; SDL- PALHD and Mr. Nicholus Kivuvo; SDL- ADVS appeared before the Committee on 23rd August, 2018 to adduce evidence on the audited financial statements for Vote 153 State Department of Livestock for the financial year (FY) 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached to this report.

439. Accuracy of the Financial Statements

439.1 Use of Goods and Services

The figure of Ksh. 578,279,676.00 reflected in the statement of receipts and payments, and which comprises expenditure on various items as shown under Note 13 differs from the figure of Ksh. 557,632,862.95 extracted from the supporting documents.

Submission by Accounting Office

The Accounting Officer in his submission admitted that the figure for use of goods and services shown in the financial statements was Ksh.578, 279,676 while the figure extracted from supporting documents at the time of audit was Ksh.557, 632,862.98. The difference of Ksh. 20, 646,813 relates to expenditure from the Districts for which expenditure returns had not been received at the headquarters during the audit. The returns have since been obtained and submitted for audit review.

Committee Observation and Finding

There figure for use of goods and services shown in the financial statements of Ksh. 578, 279,676 was different from the figure extracted from supporting documents at the time of audit which was Ksh.557, 632,862.98. The resultant difference of Ksh. 20,646,813 was attributed to delays receipts and reconciliation of expenditure returns from the Districts.

Committee Recommendations

1. **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the 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; and**

2. **The Cabinet Secretary for the National Treasury should within three (3) months after tabling of this report ensure that the Public Sector Accounting Standard Board (PSASB) in line with its functions as stipulated in Section 194 of the PFM Act 2012 embark on developing a framework & standards for the adoption of the IPSAS accrual basis of accounting and reporting by the national government MDAs as opposed to the IPSAS cash basis of accounting and reporting which has been in force since 1st July 2014 and has not addressed pertinent matters such as timing differences in accounting and reporting for revenue.**

439.2 Acquisition of Assets

Similarly, the expenditure of Ksh. 667,606,466.00 reflected in the statement of receipts and payments under acquisition of assets, includes expenditure on several items totaling Ksh. 661,432,915.00 which, however, differ from the figure of Kshs. 473,290,288.00 extracted from the supporting documents. No explanation has been provided for failing to reconcile the differences between the two sets of records, as a result of which, the accuracy of the financial statements could not be confirmed.

Submission of the Accounting Officer

The Accounting Officer in his submission admitted that the expenditure of Ksh. 667,606,466.00 shown in the financial statements under acquisition of assets included expenditure on several items totaling Kshs. 661,432,915.00 which however differed from the of Ksh. 473,290,288.00 extracted from supporting documents. He reported that the difference of Ksh. 188,142,627 related to expenditure in the field stations for which expenditure returns had not been received in the headquarters at the time of audit. He submitted that the returns have since been obtained and submitted for audit verification.

Committee Observation and Finding

It was true that the expenditure of Ksh. 667,606,466.00 which was shown in the financial statements under acquisition of assets included expenditure on several items totaling Kshs. 661,432,915.00 which however differed from Ksh. 473,290,288.00 extracted from supporting documents. The resultant difference of Ksh. 188,142,627 was attributed to delays of receipts and reconciliation of expenditure returns from the field stations.

Committee Recommendations

1. **The Accounting Officer should ensure that all AIE holders in the field officers submit their returns in time and that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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; and**

2. **The Cabinet Secretary for the National Treasury should within three (3) months after tabling of this report ensure that the Public Sector Accounting Standard Board (PSASB) in line with its functions as stipulated in Section 194 of the PFM Act 2012 embark on developing a framework & standards for the adoption of the IPSAS accrual basis of accounting and reporting by the national government MDAs as opposed to the IPSAS cash basis of accounting and reporting which has been in force since 1st July 2014 and has not addressed pertinent matters such as timing differences in accounting and reporting for revenue.**

440. Pending Bills

As disclosed in Note 26.1 to the financial statements, the Ministry, as at 30 June 2015, had pending bills totaling Ksh. 259,636,678.40 which were not settled in 2014/2015 but were carried forward to 2015/2016. Had the bills been paid and the expenditure charged to the accounts for 2014/2015, the statement of receipts and payments for the year ended 30 June 2015 would have reflected a deficit (unauthorized excess vote) of Ksh. 94,814,954.00 instead of the surplus (under-expenditure) of Ksh. 164,821,724.00 now shown. Failure to settle bills during the year to which they relate distorts the financial statements for the year and adversely affects the budgetary provision for the subsequent year to which they have to be charged.

Submission of the Accounting Officer

The Accounting Officer in his submission admitted indeed there that the State Department had bills totaling Kshs.259, 636,678.40 relating to the FY 2014/2015 and which were carried forward to the FY 2015/2016. He reported that the bills were not paid due to lack of exchequer but they were, however, cleared as a first charge in the subsequent financial year.

Committee Observations and Findings

1. **The State Department of Livestock incurred bills totaling Kshs.259, 636,678.40 relating to the FY 2014/2015 and which were carried forward to the FY 2015/2016; and**
2. **Had the pending bills been paid and the expenditure charged to the accounts for the FY 2014/2015, the statement of receipts and payments for the year ended 30th June 2015 would have reflected a deficit (unauthorized excess vote) of Ksh. 94,814,954.00 instead of the surplus (under-expenditure) of Ksh. 164,821,724.00 as was shown in the audited statements.**

Committee Recommendations

The Accounting Officers should at all cost avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget.

441. Compensation of Employees

The statement of receipts and payments, and as disclosed in Note 12 to the financial statements, reflects an expenditure of Ksh. 1,354,415,264.00 under compensation of employees which, however, differs by an amount of Ksh. 466,499.00 from the amount of Ksh. 1,353,948,765.00 shown in the underlying supporting records and documents. No reconciliation has been provided for the difference, as a result of which, the accuracy of the expenditure of Kshs. 1,354,415,264.00 reflected in the financial statements could not be confirmed.

Submission by Accounting Officer

The Accounting Officer in his submission admitted that there was a variance of Ksh.466, 499 in respect of compensation of employees. This was because of payment to casual/temporary employees which do not go through IPPD (payroll) although it was a payroll item in the vote book. He tabled a schedule and copies of payment vouchers used to pay the casuals totaling Ksh. 466, 499.

Committee Observations and Findings

1. **The statement of receipts and payments reflected an expenditure of Ksh. 1,354,415,264.00 under compensation of employees which, however, differed by an amount of Ksh. 466,499.00 from the amount of Ksh. 1,353,948,765.00 which was shown in the underlying supporting records and documents; and**
2. **The Accounting Officer failed to provide in time of the audit, a reconciliation of the difference of Ksh. 466,400.000 which attributed to payment to casual/temporary employees which do not go through IPPD (payroll).**

Committee Recommendation

The Accounting Officer should ensure that payroll reconciliations are undertaken in timeand that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

442. Transfers to Other Government Units

The statement of receipts and payments, and as disclosed in Note 15 to the financial statements, reflects an amount of Ksh. 2,281,473,937.00 as transfers to National Government entities. However, the amount differs with the amounts receipted in the entities totaling Ksh. 1,609,691,510.00 by an unexplained and unreconciled amount of Ksh. 671,782,427.00. Consequently, the completeness and accuracy of the figure of Ksh. 2,281,473,937.00 shown in the financial statements as transfers to other Government units could not be confirmed.

Submission by Accounting Officer

The Accounting Officer in his submission reported that the amount of Kshs.1, 609,691,510 relates to State Corporations and Funds but excludes donor funded projects. A comprehensive schedule for all disbursements has since been submitted to the auditors.

Committee Observations and Findings

1. **There was unexplained and unreconciled difference of Ksh. 671,782,427.00 between the statement of receipts and payments, which reflected an amount of Ksh. 2,281,473,937.00 as transfers to national government entities and amount receipted in the entities totaling Ksh. 1,609,691,510.00; and**
2. **The amount receipted of Ksh. 1,609,691,510.00 was relating to transfers to other state corporations and funds but did not include receipts for donor funded projects.**

Committee Recommendation

The Accounting Officer should ensure that reconciliation of statements of receipts and payments is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.

443. Procurement of Goods and Services

Records and documents availed indicate that goods procured worth Ksh. 16,021,500.00 were delivered and taken on charge in the stores before being inspected by the Inspection and Acceptance Committee as required by Regulation 17(3) and (4) of the Public Procurement and Disposal Regulations, 2006. In the circumstances, it was not possible to ascertain whether the Ministry got value for money on these procurements.

Submissions by Accounting Officer

The Accounting Officer in his submission stated that Regulations 3&4 of the Procurement and Disposal Regulations, 2006 provided as follows:

(3) The inspection and acceptance committee shall immediately after delivery of the goods, works or services

a) inspect and where necessary, test the goods received;
b) inspect and review the goods, work or services in order to ensure compliance with the terms and specifications of the contract
c) accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

(4) The inspection and acceptance committee shall-

a) ensure that the correct quantity of has been received;

b) ensure that the goods, works or services meet the technical standards defined in the contract;

c) ensure that the goods, work or services have been delivered or completed on time, or that any delay has been noted.

d) ensure that all required manuals or documentation have been received; and

e) issue interim or completion certificate or goods received notes, as appropriate and in accordance with the contract.

He submitted that though the goods had been taken on charge by the stores personnel by filling and signing the Counter Receipt Voucher (S13) prior to inspection, the Inspection and Acceptance Committee confirmed that the correct quantity of goods were received pursuant to subsection 4(a) and confirmed that the goods met the technical specifications pursuant to subsection 4(b).

The Ministry wishes to state that at the time of the delivery of the goods, the Inspection and Acceptance committee members were inspecting high value items (Hydroponics) delivered in our stations in Naivasha and Kitengela and were therefore not available on the day the deliveries were done. The Ministry regrets this anomaly but categorically confirms that it got value for money for the goods it had received. It is noteworthy to observe that the payment process did not start until inspection and acceptance certificates were issued and the items were not utilized by the users before their compliance to requirements was ascertained by the committee.

Committee Observations and Findings

1. **It was confirmed that indeed it was true that records and documents availed to the auditor indicated that goods procured worth Ksh. 16,021,500.00 were delivered and taken on charge in the stores before being inspected by the Inspection and Acceptance Committee; and**
2. **The Inspection and Acceptance Committee later undertook an inspection and confirmed that the correct quantity of goods were received pursuant to sub-section 4(a) of the Regulations and confirmed that the goods met the technical specifications pursuant to sub-section 4(b) of the Regulations.**

Committee Recommendation

The Accounting Officers must at all times ensure that all procurement processes including inspection and acceptances of goods and services comply with provisions of Article 227 (1) of the Constitution of Kenya 2010, the Public Procurement and Asset Disposal Act 2015 its attendant Regulations, and the procurement guidelines as issued from time to time.

444. Outstanding Imprest

The statement of financial assets as at 30th June 2015 reflects an outstanding imprest balance of Ksh. 1,100,393.00 which differs with the Ministry's imprest register and other records amounts totaling Ksh. 1,019,343.00 by an unreconciled and unexplained amount of Ksh. 81,050.00. These imprest balances ought to have been surrendered or accounted for on or before 30th June 2015, as required by Section 71(2) of the Public Finance Management Act, 2012, and Paragraph 5.6.5 of the Government Financial Regulations and Procedures.

Submission by Accounting Officer

The Accounting Officer in his submission admitted that the outstanding imprests balance reflected in the Accounts differed from the figure derived from the imprest register by a figure of Kshs.81, 050. He reported that the difference was occasioned by some surrender vouchers being processed in the system before clearance from the imprest register. The register has since been updated and agrees with the figure in the Accounts. Further, the outstanding imprests of Ksh. 1,100,393 have since been surrendered.

Committee Observations and Findings

1. **The statement of financial assets as at 30th June 2015 reflects an outstanding imprest balance of Ksh. 1,100,393.00 which were due but not surrender as at the close of the financial year contrary to the provisions of the PFM Act 2012 and Paragraph 5.6.5 of the Government Financial Regulations and Procedures; and**
2. **The Votes imprest register and other records amounts totaling Ksh. 1,019,343.00 by an unreconciled and unexplained amount of Ksh. 81,050.00.**

Committee Recommendations

1. **The Accounting Officer should ensure that reconciliation of imprests is undertaken in time and that the entity keeps up-to-date financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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; and**
2. **The Accounting Officer should ensure that imprests are managed and surrendered in time in line with the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.**

445. Unsupported Balance

The statement of assets reflects a balance of Ksh. 156,679,108.00 under district suspense, which has, however, neither been supported by any documentary evidence nor its nature explained. No explanation has been provided for failure to support or explain the nature of the balance, as a result of which, its completeness and accuracy could not be confirmed.

Submissions by Accounting Officer

The Accounting Officer in his submission explained that the balance of Ksh.156, 679,108 under district suspense relates to district expenditure which had not been captured as at the time of audit because expenditure returns had not been obtained from the districts. He reported that expenditure returns have since been obtained from the districts and the amount fully accounted for.

Committee Observations and Findings

1. **There was at the time of audit unsupported of Ksh.156, 679,108 under district suspense relates to district expenditure; and**
2. **The unsupported balance of Ksh.156, 679,108 under district suspense was attributed to delays in receiving expenditure returns from the Districts and therefor was not reconciled by the time of the audit.**

Committee Recommendations

1. **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the 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; and**
2. **The Cabinet Secretary for the National Treasury should within three (3) months after tabling of this report ensure that the Public Sector Accounting Standard Board (PSASB) in line with its functions as stipulated in Section 194 of the PFM Act 2012 embark on developing a framework & standards for the adoption of the IPSAS accrual basis of accounting and reporting by the national government MDAs as opposed to the IPSAS cash basis of accounting and reporting which has been in force since 1st July 2014 and has not addressed pertinent matters such as timing differences in accounting and reporting for revenue**

446. Construction of Biosafety Laboratory at Kabete, Nairobi

The expenditure of Ksh. 667,604,466.00 reflected in the statement of receipts and payments under acquisition of assets includes an amount of Ksh. 119,429,639.00 paid on construction of buildings, out of which, Ksh. 9,622,629.00 was paid for the construction of a Biosafety Laboratory in Kabete, Nairobi. As reported in the FY 2013/2014, this project, with a contract price of Ksh. 98,840,597.92 had commenced in 2012 with a scope of: construction of the main laboratory block, electrical, mechanical and civil works, was to be completed on 3 February 2014.

As at 30th June 2015, the project had not been completed although the contract period had long elapsed. Information available indicates that the contract was mutually terminated when the works were at lintel level: with roofing, plastering, painting, doors, windows and other elements of finishing have not been done. At the time of termination, the contractor had been paid a total of Ksh. 48,997,418.35 (or about 49.6%) of the contract price.

The remaining works have since been re-advertised and a new contractor awarded the contract on 20th January 2016 to complete the project at a new contract price of Ksh. 69,012,866.00.

Owing to the delay in completion of the project for over two (2) years now, it is not possible to ascertain whether this construction project will be completed or to determine the additional costs, if any, that would be necessary to complete the project, or the losses that the Ministry would suffer in the event that the project is not completed.

Submission by Accounting Officer

The Accounting Officer in his submission explained that owing to occasional late payments due to budgetary constraints, the original contractor abandoned site before completing the project. It was the agreed to mutually terminate the project, with effect from 21st May, 2015. It was also agreed that the contractor would not sue the Ministry for any damages.

Upon that termination, the process of engaging another contractor started and one was identified on 12th February, 2016. The new contract commenced on 15th March 2016, with a contract price of Ksh. 69,012,866.00 and a contract period of 40 weeks, to be completed on 20th December 2016.

He further submitted that by 27th September, 2016 work done under the new contract was 16% and amount paid was 11,086,680.00. However due to inadequate budgetary allocations to the project, the contract was extended to the financial year 2018/19. At the moment, the project is 95% complete and is expected to be completed in December 2018.

Committee Observations and Findings

1. **The contract for the construction of Biosafety Laboratory at Kabete, Nairobi at contract price of Ksh. 98,840,597.92 was mutually terminated on 21st May 2015 the contractor having been paid a total of Ksh. 48,997,418.35 (or about 49.6%) of the contract price;**
2. **The mutual termination was attributed to inadequate budgetary allocation and exchequer releases;**
3. **Upon the mutual termination, the process of engaging another contractor was started and one was identified on 12th February, 2016. The new contract commenced on 15th March 2016, with a contract price of Ksh. 69,012,866.00 and a contract period of 40 weeks, which was to be completed on 20th December 2016; and**

4. **The project was not completed within the set timelines in the 2nd contract since by 27th September, 2016 work done under the new contract was only 16% and amount paid was Ksh. 11,086,680.00. The contract timeline has since been extended to the FY 2018/19 and is expected to be completed in December 2018.**

Committee Recommendations

1. **The Accounting Officers must at all times ensure that all procurement processes with provisions of Article 227 (1) of the Constitution of Kenya 2010 which stipulates that when a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective; and**
2. **The Accounting Officers must at all times ensure that procurements of goods, works and services of the public entity are within approved budget of that entity as stipulated in Section 44 (2) of the Public Procurement and Asset Disposal Act 2015 so as to avoid the excuses on inadequate budgetary provisions for the completion of public projects.**

447. Land

As previously reported in 2013/2014, the Government, through Gazette Notice No. 890 dated 5th March 1957, allocated 1,400 acres, of land in Ngong, Kajiado County, to the Ministry for the construction of a veterinary training school, a veterinary farm, and related activities. Information and documentation availed indicates that the land measures 1,500 acres. The Ministry has not provided explanation for the difference of 100 acres. Further information and records availed at the Ministries of Agriculture, Livestock and Fisheries and that of Lands, Housing and Urban Development indicate that some Government agencies and private organizations have irregularly taken possession of 509 acres.

The Ministry has to date not obtained title of ownership of the land from the Ministry of Lands, Housing and Urban Development. In the circumstances, it is not possible to confirm the extent of impairment of the value of the land, if any, due to the encroachment by Government agencies and private Institutions.

Submission by Accounting Officer

The Accounting Officer in his submission explained that the Ministry had made efforts to survey the land but has met obstacles in finalizing the process. The obstacles include: claims by the community that the land belongs to them, approvals from the Kajiado County Government and claims by other institutions of the National Government and private institutions such as Police, Meteorological department, Kenya Defense Forces(Army) and Halal. The Ministry has asked the National Land Commission to secure the land since this is public land.

The Chairman of the National Land Commission (NLC) called for a consultative meeting involving various stakeholders to Ngong' veterinary farm on 21st September, 2016 to resolve the issue. He further submitted that a team of officers from the Ministry of Lands Nairobi Headquarters led by the Director of Survey and accompanied by the Deputy County Commissioner of Kajiado North visited the farm on 11th September, 2017 with the aim of implementing a Presidential directive made on 4th August, 2017. The team wanted to ascertain and appreciate the physical boundaries and institutions within the Ngong veterinary farm before further survey. The meeting heard that a preliminary survey carried out by Ministry of Lands and Physical Planning established that the acreage of the parcel is 601.19 (equivalent to 1,485.6 acres)

He submitted that the Survey Process was ongoing and the State Department is pursuing for the Title deed.

Committee Observations and Findings

1. **The Government, through Gazette Notice No. 890 dated 5th March 1957, allocated 1,400 acres, of land in Ngong, Kajiado County, to the Ministry for the construction of a veterinary training school;**
2. **The Ministry has not finalized the survey of the land and that the preliminary survey carried out by Ministry of Lands and Physical Planning established that the acreage of the parcel is 601.19 (equivalent to 1,485.6 acres); and**
3. **The Ministry has engaged the that National Land Commission whose Chairman called for a consultative meeting involving various stakeholders at Ngong' veterinary farm on 21st September, 2016 to resolve the issues and obstacles including claims laid to the land by the Community.**

Committee Recommendation

The Cabinet Secretary responsible for matters of veterinary and the Chairperson, National Land Commission should expedite the process of finalization of survey and issuance of title for the land and report back the progress to the National Assembly within three (3) months of the adoption of this report.

27.3. THE STATE DEPARTMENT OF FISHERIES

FINANCIAL STATEMENTS FOR VOTE 154

Prof. Micheni Ntiba, the Accounting Officer, State Department of Livestock accompanied by Ms. Susan Imende, Ag. Director General; Mr. Henry Ondara, Chief Accountant; Ms. Priscille Karanja, Ag. Head of Accounts; Mr. Joseph M. Katumo, Chief Economist; Ms. Jane N. Kinyai, Deputy Director Finance; and Ms. Sharon Cheredi, Finance Officer appeared before the Committee on 28th August, 2018 to adduce evidence on the audited financial statements for Vote 154 State Department of Fisheries for the Financial Year (FY) 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached hereby attached to this report.

State Department of Fisheries – Revenue Statement Head 000000-156 Fishing Rights

Basis for Qualified Opinion

448. Unsurrendered Revenue

The revenue statement for the year ended 30th June 2015 reflects a revenue on hand balance of Ksh. 4,473,244.00 that had not been surrendered to the exchequer as at 30th June 2015, contrary to the requirements of Paragraph 6.4.5 of the Government Financial Regulations and Procedures.

Submissions of the Accounting Officer

The Accounting Officer in his submissions herein attached as annex… admitted that the Statement of Revenue shows revenue in hand balance of Ksh 4,473,244 that had not been surrendered to exchequer as at 30th June 2015 contrary to requirement of paragraph 6.4.5 of Government Financial Regulations. He reported that the amount was indeed banked with Central Bank of Kenya on Various dates between 24th and 30th June 2015 (inclusive) but Central Bank delayed in crediting the Ministry Revenue Accounts. He further reported that the total amount banked was 4,825,843.20 which is more than the amount queried of Ksh 4,473,244. The difference of Ksh. 352,599.20 was amount banked but had not been posted in cash book as at 30th June 2015.

Committee Observations and Findings

1. **It was true that the revenue statement for the year ended 30th June 2015 reflected a revenue in hand balance of Ksh. 4,473,244.00 that had not been surrendered to the exchequer as at 30th June 2015, contrary to the requirements of Paragraph 6.4.5 of the Government Financial Regulations and Procedures;**
2. **The delay in the surrender of the revenue in hand balance of Ksh. 4,473,244.00 as at 30th June 2015 was attributed to timing differences where the amount was indeed banked with Central Bank of Kenya on various dates between 24th and 30th June 2015 (inclusive) but the Central Bank of Kenya delayed in crediting the Ministry Revenue Accounts; and**

3. **The total amount banked was 4,825,843.20 which is more than the amount queried of Ksh 4,473,244. The difference of Ksh. 352,599.20 was amount banked but had not been posted in cash book as at 30th June 2015.**

Committee Recommendations

1. **The Cabinet Secretary for the National Treasury should within three (3) months after tabling of this report ensure that the Public Sector Accounting Standard Board (PSASB) in line with its functions as stipulated in Section 194 of the PFM Act 2012 embark on developing a framework & standards for the adoption of the IPSAS accrual basis of accounting and reporting by the national government MDAs as opposed to the IPSAS cash basis of accounting and reporting which has been in force since 1st July 2014 and has not addressed pertinent matters such as timing differences in accounting and reporting for revenue;**
2. **The Cabinet Secretary for the National Treasury should fast-track the adoption of IPSAS accrual basis of reporting by all national government entities including Semi-Autonomous Government Agencies (SAGAs), State Corporations and Constitutional Commissions and Independent Offices. IPSAS accruals basis of accounting and reporting provide a complete and reliable picture of the financial position of MDAs and addresses timing difference challenges in accounting and reporting thereby promoting transparency and a better understanding of financial position of the whole government; and**
3. **The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) 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.**

28.0. MINISTRY OF EAST AFRICAN AFFAIRS, COMMERCE AND TOURISM

28.1. STATE DEPARTMENT OF EAST AFFRICAN AFFAIRS

FINANCIALSTATEMENTS FOR VOTE 156

Ms. Betty Maina, the Accounting Officer appeared before the PAC Committee of the 11th Parliament accompanied by Mr. Samson Ongalo; Senior Assistant Accountant General, Mr. Nelson Mose; Senior Finance Officer, Mr. Eliud Matira; Head Supply Chain Management to adduce evidence on the audited financial statements for Vote 156 State Department of East African Affairs for the Financial Year (FY) 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached hereby attached to this report.

Basisfor Qualified Opinion

449. Unsupported Development Expenditure

During the year under review, the Department recognized revenue of Kshs.54, 790,890 from Trade Mark Eas tAfrica (TMEA) and expensed the entire amount. Though copies of payment vouchers have been availed, othera ccompanying documentation to support these payments has not been made available for audit verification. This is in contravention of Section 682 (a) of the Public Financial Management Act, 2012 which requires an accounting officer to ensure tha tthe entity keeps financial and accounting records that comply with the Act.

Consequently, the propriety of the expenditure of Kshs. 54,790,890 could not be ascertained.

Committee Observations and Findings

1. **The Committee marked the matter as outstanding.**
2. **The Accounting Officer during the period under review was Amb John Konchellah.**

Committee Recommendations

1. **Within three months of the adoption of this Report, the former Accounting Officer, Amb John Konchellahshould ensure that he liases with current Accounting Officer to avail to the Auditor General supporting documentation requested to support payment of Kshs.54,790,890 for audit verification and review.**
2. **Where the former Accounting officer fails to provide the supporting documents, the Cabinet Secretary- National Treasury should proceed to surcharge him for Kshs.54, 790,890 pursuant to the provisions of Article 226(5) of the Constitution and section 202 of the Public Finance Management Act, 2012.**
3. **The EACC and DCI must investigate the propriety of transfer of Kshs.54,790,890 from the State department of Commerce and Tourism during**

the financial year 2014/2015 with a view to prosecuting any person found culpable for a criminal offence.

450. AccountReceivables–Outstanding Imprests

The statement of assets reflects accounts receivable of Kshs.5,457,472 as at 30 June 2015. Authority to Incur Expenditure (AIEs) issued to the Ministry of Foreign Affairs of Kshs.5,194,016 had not been accounted for as at 30 June 2015. Further, staff imprests and advances of Kshs.263,455 had not been recovered. This is in contravention of Section 43(1) (a) of the Public Finance Management Act, 2012.

Committee Observations and Findings

1. **The Committee marked the matter as outstanding.**
2. **The Accounting Officer during the period under review was Amb John Konchellah.**

Committee Recommendations

1. **Within three months of the adoption of this Report, the former Accounting Officer, Amb John Konchellah should ensure that he liases with current Accounting Officer to avail to the Auditor General documentation to resolve matters relating to outstanding imprests of Kshs.5,457,472for audit verification and review.**
2. **Where the former Accounting officer fails to provide the supporting documents, the Cabinet Secretary-National Treasury should proceed to surcharge him for Kshs.5, 457,472pursuant to the provisions of Article 226(5) of the Constitution and section 202 of the Public Finance Management Act, 2012.**
3. **The EACC and DCI must investigate the propriety of transfer of Kshs.5, 457,472from the State department of Commerce and Tourism during the financial year 2014/2015 with a view to prosecuting any person found culpable for a criminal offence.**

451. Accounts Payables

The statement of assets reflects an amount of Kshs.2,477,957 in respect of accounts payables as at 30 June 2015. However, supporting documents in support of this amount were not availed for audit verification. Consequently, the accuracy and propriety of the accounts payables balance of Kshs.2,477,957 could not be ascertained.

Committee Observations and Findings

1. **The Committee marked the matter as outstanding.**
2. **The Accounting Officer during the period under review was Amb John Knochellah.**

Committee Recommendations

1. **Within three months of the adoption of this Report, the former Accounting Officer, Amb John Konchellah should ensure that he liases with current Accounting Officer to avail to the Auditor General documentation to resolve matters relating toaccounts payables of Kshs.2,477,957for audit verification and review.**
2. **Where the former Accounting officer fails to provide the supporting documents, the Cabinet Secretary-National Treasury should proceed to surcharge him for Kshs.2, 477,957pursuant to the provisions of Article 226(5) of the Constitution and section 202 of the Public Finance Management Act, 2012.**
3. **The EACC and DCI must investigate the propriety of transfer of Kshs.2, 477,957from the State department of Commerce and Tourism during the financial year 2014/2015 with a view to prosecuting any person found culpable for a criminal offence.**

452. Arrears of Subscriptions to East African Community

The East African Community (EAC) Treaty-1999, Chapter 28: Article 132 (1) stipulates that there shall be a budget for the organs and institutions of the Community, save for the self-accounting institutions, and Article 132 (4) provides that the budget of the Community shall be funded by equal contributions by the Partner States and receipts from regional and international donations and any other sources as may be determined by the Council. A review of the documentation availed revealed that the Country through the State Department of East African Affairs has not consistently paid its contributions resulting in arrears of Kshs.122,619,679.90 (USD.1,243,103) as at 30 June 2015. In addition, the Department has not provided reconciliation to show the correct position between the amount in supporting documents of USD.2,764,254 and that reflected in the financial statements of USD.1,243,103.

Consequently, the East African Community Treaty was not honored which impacts negatively on the financial affairs of the East Africa Community and the integratioagenda.

Committee Observations and Findings

1. **The Committee marked the matter as outstanding.**
2. **The Accounting Officer during the period under review was Amb John Konchellah.**

Committee Recommendations

Within three months of the adoption of this Report, the former Accounting Officer, Amb John Konchellah should ensure that he liases with current Accounting Officer to avail to the Auditor General documentation to resolve matters relating toarrearsof subscriptionsto the EastAfrican Community.

453. InadequatelySupportedExpenditure

The State Department paid Kshs.2,887,840 to various suppliers but there was inadequate supporting documents like ETR and relevant approvals. An amount of Kshs.798,424 was also paid to four suppliers who were not in the list of pending bills as at 30 June 2014. Consequently, the propriety of expenditure of Kshs.3,686,264 could not be ascertained.

Committee Observations and Findings

1. **The Committee marked the matter as outstanding.**
2. **The Accounting Officer during the period under review was Amb John Konchellah.**

Committee Recommendations

1. **Within three months of the adoption of this Report, the former Accounting Officer, Amb John Konchellah should ensure that he liases with current Accounting Officer to avail to the Auditor General documentation to resolve matters relating to inadequatelysupportedexpenditure of Kshs.3,686,264for audit verification and review.**
2. **Where the former Accounting officer fails to provide the supporting documents, the Cabinet Secretary-National Treasury should proceed to surcharge him for Kshs.3, 686,264 pursuant to the provisions of Article 226(5) of the Constitution and section 202 of the Public Finance Management Act, 2012.**
3. **The EACC and DCI must investigate the propriety of transfer of Kshs.3, 686,264 from the State department of Commerce and Tourism during the financial year 2014/2015 with a view to prosecuting any person found culpable for a criminal offence.**

454. Statementof Cash Flows

Included in the statement of cash flows is an amount of Kshs.2,465,788 reflected as adjusted for adjustments during the year. However, no supporting documents were made available for audit review. Consequently, it has not been possible to ascertain the correctness of the statement of cash flows.

Committee Observations and Findings

1. **The Committee marked the matter as outstanding.**
2. **The Accounting Officer during the period under review was Amb John Konchellah.**

Committee Recommendations

Within three months of the adoption of this Report, the former Accounting Officer, Amb John Konchellah should ensure that he liases with current Accounting Officer to avail to the Auditor General documentation to resolve matters relating to outstanding imprests of Kshs.2,465,788for audit verification and review.

Other Matters

455. Under-Absorption of Funds

The Department had an overall budget estimate of Kshs.1,683,603,767 and spent Kshs.1,533,206,793 resulting in an under absorption of Kshs.150,396,974. This has a negative impact on the service delivery and achievement of overall objectives of the Department.

Committee Observation and Finding

The Committee marked the matter as resolved.

456. Under- Funding of theDepartment

During the financial year, the Department received Kshs.1,480,600,000 against the budgeted amount of Kshs.1,617,103,767 resulting in an underfunding of Kshs.136,503,767. Consequently, some planned activities of the Department could not be carried out due to the shortfall in funding.

Committee Observation and Finding

The Committee marked the matter as resolved.

457. Nil Opening Balances

The financial statements of the State Department did not have comparative figures for the financial year 2013/2014. Though it was explained that in the previous year the Ministry of East AfricanAffairs, Commerce and Tourism included the figures for both the Department of East African Affairs and Department of Commerce and Tourism, it is not clear why the figures could not be split to reflect each department’s opening balances.

Committee Observations and Findings

The Committee marked the matter as resolved.

28.2. STATE DEPARTMENT OF COMMERCE AND TOURISM

FINANCIAL STATEMENTS FOR VOTE 157

Mr. Joe Okode, the Accounting Officer State Department of Commerce and Tourism accompanied by Mr. Said Athman; Secretary Administration, Mrs. Margret M. Byama; Chief Finance Officer, Ms. Lilian Moraa; Legal Officer, Ms Susan Theuri; Chief Accountant and Mr Mulei Muia; Director Public Communication appeared before the Committee on 25th October, 2018, to adduce evidence on the audited Financial Statements of Vote 157 State Department Commerce and Tourism for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached.

Basis for Qualified Opinion

458. Expenditure Not Related to the State Department

Included in use of goods and services is an amount of Kshs.3,680,000 transferred on 16 February 2015 to cater for dinner during the 12 African Fine Coffees Association (AFCA) conference and exhibition held from 12 to 14 February 2015. There was no evidence that the activity was budgeted for by the State Department and there was no evidence that the service was procured as required by the Public Procurement and Disposal Act, 2005. Further, although the money was transferred to the Coffee Directorate in the Ministry of Agriculture and Fisheries in contravention of Section 43(1) (a) of Public Finance Management Act, 2012 there is no evidence that the Authority to Incur Expenditure (AIE) has been accounted for. Consequently the propriety of the procurement of the service worth Kshs.3,680,000 could not be confirmed.

Submission by Accounting Officer

The accounting officer admitted that it was true that an amount of Kshs 3,680,000.00 was transferred to the Directorate of Agriculture, Fisheries and Food Authority in the Ministry of Agriculture, Livestock and Fisheries vide Payment Voucher Number -332 on 16th February 2015. The funds catered for the welcome dinner for 1,000 delegates attending the 12th African Fine Coffee Association Conference and Exhibition.

The Ministry of Agriculture had requested that the Ministry of East African Affairs Commerce and Tourism to co-host the welcome dinner because it was an opportunity to promote and showcase the various tourism products.

The expenditure was charged to Tourism Recovery Programme which had a budgetary allocation of Kshs. 400 million to cater for various Tourism recovery activities such as holding conferences, as part of a tourism marketing tool.

The funds were transferred to the Coffee Directorate in the Ministry of Agriculture as the government department that coordinated the entire event. The funds were properly accounted for as the event was successfully held at Safari Park Hotel. We received acknowledgement from Coffee Directorate and a copy of the receipt from the hotel.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that an amount of Kshs 3,680,000.00 was transferred to the Directorate of Agriculture, Fisheries and Food Authority in the Ministry of Agriculture, Livestock and Fisheries vide Payment Voucher Number 332 on 16th February 2015 to cater for the welcome dinner for 1,000 delegates attending the 12th African Fine Coffee Association Conference and Exhibition was not sufficient as the Accounting Officer did not provide documentation tosupport thepayments.**
2. **The Accounting officer during the period under review was Dr. Ibrahim Mohammed The matter remains unresolved.**

Committee Recommendations

1. **Within three months of the adoption of this Report, the former Accounting Officer, Dr. Ibarahim Mohammed should ensure that he liases with current Accounting Officer to avail to the Auditor General supporting documentation requested to support payment of Kshs 3,680,000.00 for audit verification and review.**
2. **Where the former Accounting officer fails to provide the supporting documents, the Cabinet Secretary- National Treasury should proceed to surcharge him for Kshs 3,680,000.00 pursuant to the provisions of Article 226(5) of the Constitution and section 202 of the Public Finance Management Act, 2012.**
3. **The EACC and DCI must investigate the propriety of transfer of Kshs 3,680,000.00 from the State department of Commerce and Tourism during the financial year 2014/2015 with a view to prosecuting any person found culpable for a criminal offence.**

459. Prior Year Adjustment

The statement of assets reflects a cash balance brought forward of Kshs.140,135,503 comprising of a bank balance of Kshs.84,800,821, cash in hand balance of Kshs.54,350,688 and accounts receivable of Kshs.983,994 as at 30 June 2014. However, these amounts have been netted off in 2014/2015 as prior year adjustment without any support.

Under the circumstances, the accuracy and validity of the prior year adjustments of Kshs.140,135,688 could not be confirmed.

Submission by Accounting Officer

The accounting officer admitted that it was true that the statement of assets reflects balance brought forward of Kshs. 140,135,503.00. This was netted off in 2014/2015 as a prior year adjustment. This balance was analyzed and approved by the National Treasury Task Force on old balances. Journals were submitted to KENAO for review and approval.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the balance was analyzed and approved by the National Treasury Task Force on old balances was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

460. Pending Bills

During the year under review, the Ministry had pending bills of Kshs. 90,954,254.27 as indicated in Note 13.1. However, Annex 1 to the financial statements reflects pending bills of Kshs. 106,164,502.07 as at 30 June 2015. The resultant difference of Kshs. 15,210,244.80 has not been reconciled. Further, the contracts and services rendered or goods procured have not been shown. In addition, carrying forward pending bills affects the budget of the subsequent year as they are treated as a first charge.

Under the circumstances the accuracy and propriety of the pending bills of Kshs.90, 954,257.27 could not be confirmed.

Submission by Accounting Officer

The accounting officer admitted that it was true that there was a difference in amounts in Note 13.1 of the Financial Statements where Pending Bills amounted to Kshs. 90,954,257.27 while Annex 1 to Financial Statements showed bills amounting to Kshs. 106,164,502.07. The resulting difference of Kshs. 15,210,244.80 was due to late submission of invoices by suppliers which had not been captured in the IFMIS. The list of Pending Bills has since been reconciled, updated and paid.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that resulting difference of Kshs. 15,210,244.80 was due to late submission of invoices by suppliers which had not been captured in the IFMIS was acceptable.**

2. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

Other Matters

461. Late disbursements of Grants

There are various instances when grants to semi-autonomous organizations are disbursed towards the financial year end and thus the grants are not utilized in the financial year that they were budgeted for. In some instancesthe funds are received in the following financial year which means the parastatals are unable to implement the various programs planned for as tabulated below;

Date	**P.V.No**	**Parastatal Name**	**AmountKshs**	**Class/Vote**
29 June 2015	10111	Kenya Tourist Board	5,000,000	Development
28 June 2015	9628	Brand Kenya Board	12,000,000	Development
28 June 2015	9634	Brand Kenya Board	28,000,000	Development
28 June 2015	9634	Brand Kenya Board	12,000,000	Development
28 June 2015	9632	Kenya Utalii College	50,000,000	Development
29 June 2015	7469	Kenya Investment Authority	40,000,000	Recurrent
29 June 2015	9633	Kenya Investment Authority	50,000,000	Development
29 June 2015	9853	Kenya Investment Authority	15,000,000	Development
Total			**212,000,000**	

Further, the vote book status report shows cumulative development grants of Kshs.382,084,597towards Kenya Tourism Board while the records of the Board reflect Kshs.168,000,000 development grants occasioning an unexplained difference of Kshs.214,084,597.

In view of the foregoing, budgeting and programs implementation by the State Corporation is compromised and the planned activities are not carried out.

Submission by Accounting Officer

The accounting officer admitted that it was true that there was late disbursement of grants to SAGAs. The Ministry processed the payments to SAGAs in IFMIS system on time and released the funds once the exchequer provisions were received. The Recurrent Exchequer notification Re. No1191/14/15 amounting to Kshs. 70 million was released by the National Treasury on 24thJune, 2015, while the Development Exchequer notification: Ref:No.DE:483/14/15 amounting to Kshs. 526,610,000.00 was received on 30/6/2015.

The Ministry received a total of Kshs. 2,608,000,000.00 Development Exchequer against the approved budget of Kshs. 2,888,131,000.00 resulting into exchequer under-issue of Kshs. 280,131,000.00.

Further on the Kenya Tourism Board (KTB) grants difference of Kshs. 214,084,597.00, it was occasioned by KTB not accounting for all funds received in July 2015 but had been budgeted for the Financial Year 2014/2015. This was due to late receipt of Exchequer on 30th June 2015. This has so far been reconciled.

Committee Observations and Findings

1. **The Ministry received a total of Kshs. 2,608,000,000.00 Development Exchequer against the approved budget of Kshs. 2,888,131,000.00 resulting into exchequer under-issue of Kshs. 280,131,000.00.**
2. **Kenya Tourism Board (KTB) grants difference of Kshs. 214,084,597.00 was occasioned by KTB not accounting for all funds received in July 2015 but had been budgeted for the Financial Year 2014/2015. This was due to late receipt of Exchequer on 30th June 2015 and has so far been reconciled.**
3. **The Committee marked the matter as resolved.**

Committee Recommendations

1. **Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into a three months rolling basis and adjust them to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.**
2. **Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.**

462. Budgetary Control and Performance

462.1 Comparison of Budgeted versus Actual

A comparison of the development budget verses the actuals revealed the following;

Details		Original Budget (Kshs.)	Adjustments (Kshs.)	FinalBudget (Kshs.)	Actualon Comparable Basis(Kshs.)	Budget Utilisation Difference (Kshs.)	per cen tof Utilisation
		a	b	c=a+b	d	e=c-d	f=d/c percent
RECEIPTS							
Exchequer releases		0	0	0	5,485,605,000	5,485,605,000	0percent
Proceeds from Sale ofAssets		17,600,000	0	17,600,000	13,462,673	4,137,327	76 per cent
Other Receipts	Licen-cing fee	2,687,938	0	2,687,938	51,174,607	-48,486,669	1,903percent
	AIA	13,000,000	0	13,000,000	16,554,556	3,554,556	127percent
Total		**33,287,938**	**0**	**33,287,938**	**5,566,796,836**	**5,533,508,898**	
PAYMENTS							
Compensation of Employees		346,306,889	14,351,155	360,658,044	359,468,085	1,189,959	100percent
Useofgoodsand services		1,128,106,566	51,709,600	1,179,816,166	1,008,001,884	171,814,282	85 per cent

TransferstoOther GovernmentUnits	2,040,678,939	691,422,211	2,732,101,150	2,612,939,966	119,161,184	96 per cent
Other grants and transfers	276,500,000	0	276,500,000	268,287,966	8,212,034	97 per cent
Social Security Benefits	0	0	0	0	0	0percent
Acquisition of Assets	1,044,115,000	300,600,000	1,344,715,000	1,273,157,017	71,557,983	95 per cent
Totals	**4,835,707,394**	**1,058,082,966**	**5,893,790,360**	**5,521,854,919**	**371,935,441**	**94 per cent**

The budget was therefore underutilized by Kshs. 371,935,441 representing about 6% under absorption. The under absorption impacts negatively on the planned and promised development activities.

Submission by Accounting Officer

The accounting officer admitted that it was true that the budget was under-utilized by Kshs. 371,935,441.00 representing about 6 percent under absorption.

The Ministry had total receipts amounting to Kshs. 5,515,622,228.00 for the Financial Year 2014/2015, which consisted of Exchequer releases of Kshs 5,485,605,000.00 and collection of AIA of Kshs 30,017,228.00 against the budget of Kshs. 5,893,290,360.00. The resultant difference of Kshs.371, 935,441.00 represent exchequer under issue and under collection of AIA for the year under review.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that resultant difference of Kshs.371, 935,441.00 represent exchequer under issue and under collection of AIA for the year under review was acceptable.**

2. **The Committee marked the matter as resolved.**

462.2 Grants and Budget Execution

The supplementary budget of most government agencies under the Ministry exceeded 10% yet there is no evidence that there wasunforeseen and unavoidable circumstances where no budget provision was made and there was an existing budgetary provision which was however inadequate. A tabulation of the over expenditure is as follows;

Recurrent Expenditure				
Agency	**Approved Printed Estimates KShs.'000'**	**Supplementary Estimates KShs.'000'**	**Cumulative Expenditure KShs.'000'**	**percent Revision**
Kenya Investment Authority	180,000	40,000	220,000	22percent
Export Promotion Council	260,565	200,000	460,565	77percent

Development Expenditure				
Agency	**Approved Printed Estimates KShs.'000'**	**Supplementary Estimates KShs.'000'**	**Cumulative Expenditure KShs.'000**	**percent Revision**

			,	
Kenya Investment Authority	-	50,000	50,000	100percent
Kenyatta International ConferenceCentre	151,000	200,000	351,100	132.5percent
Bomas of Kenya	155,000	100,000	255,000	64.5percent
KenyaUtalii College	63,780	50,000	113,780	78.4percent
Catering and Tourism Development Levy Trustee	-	311,422	311,422	100percent
Brand Kenya Board	-	40,000	40,000	100percent

The supplementary estimates amounting to approximately Kshs.254 million (development vote) andKshs.803 million (recurrent vote) did notcomply with provisions of Article 223(5)

of the Constitution of Kenya Section 21, 43 (2) (c) and 44 of the Public Finance Management Act, 2012 and Section 40 (9) of Public Finance Management Regulations, 2015.

Consequently, the expenditure was incurred contrary to the fiscal responsibility principles and financial objectives of the economy.

Submission by Accounting Officer

The accounting officer admitted that it was true that the preparation of Supplementary Estimates is guided by Article 223 of the Constitution of Kenya (2010), sections 21, 43 and 44 of the

Public Finance and Management Act (2012), section 40 of the PFM Regulations and other relevant Treasury Circulars issued from time to time.

It was also true that additional funds are given under circumstances of insufficiency or occurrence of a need that was unforeseen and unavoidable.

The additional expenditure was necessitated by the need to upscale tourism recovery measures/activities that the Ministry was undertaking following the slump in Tourism performance. The Ministry requested for additional funding and Treasury's consent was granted.

Subsequently, parliament as required by law, approved the supplementary estimates. As a result, the State Department of Commerce and Tourism received additional funds of Kshs.803, 731,811.00 and Kshs.254, 351,155.00 under both development and recurrent votes respectively.

The 10 percent clause stated in the report is in respect of reallocations within programmes/sub-votes (PFM Act section 43(2)) and not state agencies which are at Head level.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the additional expenditure was necessitated by the need to upscale tourism recovery measures/activities that the Ministry was undertaking following the slump in Tourism performance and that Parliament approved the supplementary budget. Consequently, the State Department of Commerce and Tourism received additional funds of Kshs. 803,731,811.00 and Kshs. 254,351,155.00 under both development and recurrent votes respectively and therefore, the expenditure was not incurred contrary to the fiscal responsibility principles and financial objectives of the economy was reasonable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into a three months rolling basis and adjust them to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

463. Payments towards Ronald Ngala Utalii Academy

During the financial year, the State Department made payments in respect of construction of Ronald Ngala Utalii Academy, Kilifi County asfollows;

Payeee	Amount(Kshs.)
M/s Mulji Devlaji & Brothers	381,989,282
M/s Armtech Consulting Engineers	29,533,526
M/s Ujenzi Consultants	41,324,896
PKF Consultants	3,988,460
Geomeasures Surveyors	3,822,536
Baseline Architects Ltd	39,341,300
Total	**500,000,000**

However, the main contract agreement for the construction of Ronald Ngala Collegewassignedon14May2013betweenCateringandTourismDevelopmentLevy Trustees (now Tourism Fund) and various contractors when the Tourism Development Levy Trustees were not in office.

Further, the current payments arrangement poses challenges for remedies since there is no contractual obligation between the State Department and contractors. The legal status of the proposed College is not certain as it is yet to obtain corporate status. In addition, payments to the consultants were based on the contract sum of Kshs.8,961,370,998where as the actual works have been scaled down into phases I withKshs.4.923billion and II with Kshs.4.038 billion of which phase II is yet to commence. Additionally, the project was awarded without the Ministry having funds contrary to Public Procurement and Public Finance Management Act, 2012. The Cabinet had approved a Project of Kshs.1.94 billion which has now escalatedto Kshs.8.9 billion.

Under the circumstances, the propriety and legality of the expenditure of Kshs.500, 000,000onRonaldNgalaUtalii Academy could not be confirmed.

Submission by Accounting Officer

The accounting officer admitted that it was true that the State Department made payments to various contractors in the financial year 2014/2015 totaling Kshs. 500 million towards the construction of Ronald Ngala Utalii Academy, Kilifi County. The contract for the construction of the College was between the Tourism Fund (formerly Catering Development Levy Trustees) and various contractors.

On this matter, the accounting officer made the following comments:-

During the Financial Year 2014-2015 Parliament approved a budgetary allocation of Kshs. 500 million towards the construction of Ronald Ngala Utalii Academy. On 5th September, 2014 the State Department wrote to the National Treasury vide letter Ref: MTI/32/1/VOL II requesting for the Re-allocation of the Kshs. 500 million from Ronald Ngala Utalii Academy Item 1-1181000907-3110504- other infrastructure and Civil Works to Tourism Fund (Formerly CTDL) Item 1-1181000906-3110504 - other infrastructure and Civil Works so as to enable Tourism Fund pay the contractors. This was due to the fact that there was no institutional frame work at the Ronald Ngala Utalii College to enable the State Department transfer the funds to the College. The National Treasury declined to grant the request vide their letter Ref. No.es127/14/01 (5) dated 15th September, 2014 advising the State Department to pay through the existing vote Head.

The Ministry wrote to Tourism Fund vide letter No. Ref: MEACT/3/11 dated 31st October, 2014 requesting for details and documents of the contractors and their respective outstanding payments. This was after a consultative meeting between the Ministry and representatives from the Tourism Fund held at the Ministry headquarters on the same day. The Contractors were then paid accordingly. The payments were done to avoid litigation by the contractors since the services had been rendered.

During the subsequent Financial Year 2015/2016, the budget for this project was provided as grants to SAGAs under Tourism Fund. All payments to contractors were therefore paid by Tourism Fund which is administering the project**.**

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the state department made payments worth Kshs.500, 000,000 pursuant to the advice of a letter from the National Treasury Ref. No.es127/14/01 (5) dated 15th September, 2014 was sufficient as the Accounting Officer had brought to the attention of the National Treasury the fact the Department did not have any contractual obligations with the contractors.**
2. **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must ensure that that all contracts entered into by the entity are lawful and are complied with pursuant to the provisions of section 68(2)(d) of the Public Finance Management Act, 2012.

464. Open Plan Partitioning Contract at Utalii House4thFloor

The Ministry used restricted tendering for the works and invited 10 contractors to quote for open plan partitioning contract the sum ofKshs.20, 986,736butthesourceofthe contractors has not been explained. The contract was awarded vide minutes of Ministerial Tender Committee meeting No. MTC 24/2013/2014 dated 9 June 2014 notwithstanding the freezing of award of contracts by the National Treasury. The contractagreementwassignedon27July 2014 after the first installment was paid of Kshs.8.5million. Payments were made without completion of works and certificate of works carried out and certified for payment.

Consequently the management did not adhere to the Public Procurement and Disposal Act, 2005and Regulations 2006 (Revised 2013) in the procurement.

Submission by Accounting Officer

The accounting officer admitted that it was true that the Ministry used restricted tendering in procuring the services of open plan partitioning for the offices of Consumer Protection Advisory Committee (KECOPAC) on the 4th floor of Utalii house as was approved by the tender committee MTC 24/2013-2014 meeting held on 19th June 2013.

Restricted tendering process was used based on Public Procurement and Disposal Act 2005 Part VI Section 73(2)(b) which states that "A procuring entity may engage in restricted tendering if:

i) The time and cost required to evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured and

ii) The maximum level of expenditure shall be Ksh.20 Million".

We confirm that the contract to partition the KECOPAC offices on the 4th floor of Utalii house was awarded to M/S Splash General suppliers limited at a cost of Kshs 19,986,736.20. The list of payments made has been analyzed below :**(Appendix 7)**

Date	**PV/No.**	**Payee**	**10 percent Retention**	**Total**
02.01.2015	3242	10,338,062.60	1,148,673.60	11,486,736.20
30.06.2015	8298	7,650,000.00	850,000.00	8,500,000.00
TOTAL		**17,988,062 .60**	**1,998,673.60**	**19,986,736.20**

A copy of the contract agreement between the Ministry and the contractor is availed for audit review. The list of invited contractors was provided by the Ministry of Lands, Housing and Urban Development, Directorate of Public Works vide letter Ref. No. DWO/LNGT/PAR-2W&M/UT/2013-2014 dated 6th May 2014 with 10 prequalified suppliers**.**

Committee Observations and Findings

1. **The explanation by the Accounting Officer was not sufficient because it did not clarify why payments amounting to Kshs 8.5million were made after the** contract **agreement was signed andwithout completion of works and certificate of works carried out and certified for payment contrary to the provisions of section 68(2) of the Public Procurement and Disposal Act, 2005 and regulation 54(1) of the Public Procurement and Disposal Regulations, 2006.**
2. **The Accounting Officer during the period under review was Dr Ibrahim Mohammed.**
3. **The matter remains unresolved.**

Committee Recommendations

1. **Within three months of the adoption of this Report, the former Accounting Officer, Dr. Ibarahim Mohammed should ensure that he liaises with current Accounting Officer to avail to the Auditor General justification for payment of Kshs 8.5million without a signed contract.**
2. **Where the former Accounting officer fails to provide the supporting documents, the Cabinet Secretary- National Treasury should proceed to surcharge him for Kshs.8.5million pursuant to the provisions of Article 226(5) of the Constitution and section 202 of the Public Finance Management Act, 2012.**
3. **The EACC and DCI should within three months after the adoption of this report, investigate the propriety of payment of Kshs.8.5 million from the State department of Commerce and Tourism during the financial year 2014/2015 with a view to prosecuting any person found culpable for a criminal offence.**

465. Payment of Irregular Pending Bills

During the year the Ministry paid the following suppliers' invoices that were brought forward from previous financial year:

Date	P.V.No	Payee	Amount (Kshs)
22Jan15	2112	TamiaLtd	9,119
22Jan15	2111	TamiaLtd	45,595
18March15	409	Mocam Security	19,488

25June15	4800	BechyTours	674,105
25June15	4788	AimatCompany	188,952
25June15	4785	Karoza Agencies	92,914
25June15	4783	Jebrive Investment	538,204
25June15	4804	Lijo Gen.Supplies	495,000
		Total	**2,068,377**

However, the suppliers and the amounts could not be confirmed from the list of pending bills for 2013/2014 financial year. In the circumstances, the propriety of theexpenditure of Kshs. 2,068,377couldnotbe ascertained.

Submission by Accounting Officer

The Ministry paid Pending Bills totaling to Kshs. 2,068,077.00 brought forward from 2013/2014 Financial Year which were not included in the list of Pending Bills. These invoices had not been recognized at the time of compilation of the list of Pending Bills at close of the Financial Year 2013/2014. These were Pending Bills incurred by the Ministry in Financial Year 2013/2014, but the invoices were submitted at the beginning of the Financial Year 2014/2015. The Ministry updated the list of Pending Bills and paid them since services had been rendered.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that Pending Bills of Kshs. 2,068,077.00 incurred by the Ministry in Financial Year 2013/2014, but the invoices were submitted at the beginning of the Financial Year 2014/2015 because the invoices had not been recognized at the time of compilation of the list of Pending Bills at close of the Financial Year 2013/2014 was acceptable.**
2. **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officers must at all times ensure that they submit accurate and complete financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

29.0. KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

THE FINANCIAL STATEMENTS FOR VOTE 201

Ms. Patricia Nyaundi, the Accounting Officer appeared before the Committee accompanied by Mr. John Wamwanga: Finance Manager on 6th December, 2016, to adduce evidence on the audited Financial Statements of Vote 201Kenya National Commission on Human Rights for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached as to this report.

466. Pending Bills

Records maintained by the Commission reflect pending bills totaling Kshs.7, 871,000.00 relating to financial year 2014/2015 that were not settled during the year but were instead carried forward to year 2015/2016. Information available indicates that this situation arose due to non-release of exchequer by the National Treasury. Had the bills been paid and expenditure charged to the accounts for 2014/2015, the statement of receipts and payments would have reflected a net deficit of Kshs.10, 733,000.00 instead of Net deficit of Kshs.2, 862,000.00 now shown.

Submission by the Accounting Officer

The pending bills of KShs. 7,871,000 did not occur as a result of non-availability of funds in our Budget but occurred due to non-release of exchequer by the National Treasury. The National Commissions' 2014/2015 FY Budget was KShs. 356,500,000 and the total exchequer released to us was KShs. 345,200,000 leaving a budget balance of KShs. 11,300,000 which was sufficient to take care of the pending bills. The pending bills therefore could not have contributed to additional deficit since there was adequate budget to support these bills.

At the time of making commitments we had sufficient funds in our budgetary allocation. The bills were however not paid in the 2014/2015 FY because the National Treasury failed to release funds for these items and advised that the payments be carried forward to the next financial period.

Committee Observations and Findings

1. **The explanation from the Accounting Officer that The bills were however not paid in the 2014/2015 FY because the National Treasury failed to release funds for these items and advised that the payments be carried forward to the next financial period was compelling.**
2. **The matter was marked as resolved.**

30.0. NATIONAL LAND COMMISSION

FINANCIAL STATEMENTS FOR VOTE 202

Prof. M. A Swazuri, the Chairman to the Commission appeared before the Committee accompanied by Francis K. Mugo; Director Finance Administration, Bernad Chemticho; Deputy Director Finance Administration, Dr. Salome Minubi; Valuation, Chavangi Aziz Tom; CEO, Daniel Mwakio; PFOappeared before the Committee on 7th March, 2018 to adduce evidence on the audited financial statements for Vote 202National Land Commission for the Financial Year (FY) 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached hereby attached to this report.

467. Over Expenditure

The statement of receipts and payments reflects expenditure of Kshs. 535,275,993 on use of goods and services against a budget of Kshs. 354,208,829 for the year under review resulting in an excess expenditure of Kshs. 181,067,164. Management has not availed authority from Treasury for this over expenditure in line with Public Financial Management Act Regulations of 11 October, 2013 Section 61B (sub-regulation 1) which provides that "Except as provided for in the Act and these regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than these activities". In the absence of the authority from National Treasury, the propriety of the excess expenditure totaling Kshs. 181,067,164 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer was within its total approved budget and had only intra-borrowed within budget lines to undertake important Commission activities.

Committee Findings and Observations

1. **The explanation by the Accounting Officer that the over expenditure was within its total approved budget and had only intra-borrowed within budget lines to undertake important Commission activities was not agreeable, to the extent that they did not avail evidence of authority from the National Treasury pursuant to the provisions of regulation 61B (1) of the Public Financial Management Regulations and regulation 48(1) (e) of Public Finance Management (National Government) Regulations, 2015.**
2. **The Accounting Officer during the period under review was the Commission Secretary.**
3. **The matter remains unresolved.**

Committee Recommendations

1. **The Cabinet Secretary National Treasury should invoke power assigned under section 13(1) (d) of the Public Finance Management, 2012 to compel, Tom. A. Chavangi, to provide within three months of the adoption of this report, the basis for expenditure totalling Kshs 181,067,164 used goods and services.**
2. **Where no satisfactory explanation is not provided to the CS National Treasury and Auditor General within the stipulated time, Tom. A. Chavangi, should prosecuted for financial misconduct relating to incurring expenditure on behalf of that entity without lawful authority contrary to section 197(1)(h) of the Public Finance Management Act, 2012.**
3. **The Accounting Officer should submit the avail authority from the National Treasury for this over expenditure to the Auditor General, failure to which the Accounting Officer during the period under review to be surcharged Kshs 181,067,164 for expenditure used goods and services pursuant to the provisions of section 202(1)(b) of the Public Finance Management Act, 2012.**
4. **The Committee recommends that the Commission immediately regularizes the anomaly with Treasury and confirm the same with the Auditor General within three months after adoption of this report.**

31.0. INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION FINANCIAL STATEMENTS FOR VOTE 203

Mr Ezra Chiloba, the Accounting Officer, Independent, Electoral and Boundaries Commission accompanied by Ms. Consolata Nkathi Maina; vice chairperson, Amb. Paul Kurgat; Commissioner, Mr. Marjan Husein; Deputy CEO, Mr. Osman Ibrahim; Director Finance, Mr. Mahamud Jabane; Ag Director LPA, Ms. Immaculate Kassait; Director Voter Registration, Mr. James Muhati; Director ICT, Ms. Milcah Chebos; Ag. Director Supply Chain Management, Ms. Irene Mutai ; Ag Director Human Resource Administration, Mr. M.O Hassan; Manager Administration, Mr. Andrew Limo; Manager Communication, Mr. Jason Akoyo; MB, Mr. Moses Kipchogen; Mo CBO appeared before the Committee on 22nd March, 2018, 26th March to adduce evidence on the audited financial statements for Vote 154 State Department of Fisheries for the Financial Year (FY) 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached hereby attached to this report.

The queries raised by the auditor general are arranged in paragraphs as follows:

468.1 Contract for Supply, Delivery, Installation, Configuration, Training, Testing and Commissioning of Electronic Voter Identification Devices

Examination of the Contract signed on 11 December 2012 for the supply of and delivery, installation, configuration, training, testing and commissioning of electronic voter identification devices reveals that 30,000 "hand held devices", 30,000 SD CARDS, 30,000 carry bags and 30,000 additional batteries were procured at USD.16,651,139.13.

Examination of Clause 3.8 of the Special Conditions of Contracts indicates that an upfront payment of USD 2.5 Million through a letter of Credit was mandatory before execution of the contract. However, the Contractor through letter Ref: 13 FT002AA dated 16 January 2013 indicates that IEBC had not issued a letter of credit, therefore, proposed a change of specification to deliver a "portable laptop solution".

Although there was no new contract signed between the parties, correspondences indicate that the Commission irregularly accepted change in specifications with differences in prices and value of goods and services, and the contractor delivered portable laptops as follows: -

S/No	Date of Delivery	Delivery Note	Item Description	Quantity
1	12.2.2013	0123	Laptops	1175
2	13.2.2013	0121	Laptops	10,955
3	14.2.2013	0122	Laptops	3270
4	21.2.2013	0126	Laptops	14600
Total			**30000**	

In this circumstance, it is evident that value for money was not obtained in payment of USD 16,651,139.13 due to change of specifications, inadequate time to train and therefore, inability to effectively use the laptops during the elections. Some officers of the Commission have been investigated for procurement violation by EACC and the matter is in court.

Submission by the Accounting Officer

1. The contract was between the Commission and Face Technology and they provided for the supply and delivery of 30,000 units of handheld devices.
2. The Commission accepted delivery of 34,600 EVID kits - a mix of laptops and handheld devices. The matter is in court and the issues raised by the Auditor General are the same issues canvassed at the court such as the irregular variation of specifications.
3. The matter was still unresolved as it is still in court.
4. The Accounting Officer attributed the issue to the previous Accounting Officer, Mr. James Oswago.

The Committee invited Mr. James Oswago to make a submission relating to the matter

Failure to adhere to technical recommendations to cancel the EVID tender prior to signing the contract since the risk of failure had already been anticipated by technical team (ICT Director and International Federation of Electoral system consultant)

Mr Oswago submitted:

1. That the conclusion was inaccurate and premature since it was based on the initial technical advice by the Director ICT on the 6th December 2012 and the initial advice of Ronan McDermott of IFES dated 7th December 2012

2. That the audit did not consider the following :

    I. Technical presentation paper presented to IEBC plenary by the Director ICT on the 26th January 2013 at 10: am. The report endorsed Face technology's latest proposal of 5000 handheld device and 25000 laptop based solution as the only option available for the Commission.

    II. The report of Mr. Ronan McDermott (IFES technical advisor) titled IFES report on FACE demo/EVID dated 23rd January, 2013. The report advised that the alternative laptop based EVID solution can function as required on Election Day and identify or authenticate voters going to the polls.

    III. The IEBC chairman's response to IFES report on 7th December, 2012. The Chairman's submitted that cancellation of the tender will seriously undermine the dwindling confidence level in the Commission.

He concluded that the Auditor General failed to consider the final and binding technical advice from both IFES and Director ICT and the forceful response by the IEBC chairman and instead he relied on initial preliminary technical advice

Committee Observations and Findings

1. **That the decision made by IEBC was a direct violation of section 139 of the Public Procurement and Disposal Act, 2015.**
2. **The Committee noted that William Hunter, a signatory in the Contract agreement between the IEBC and Face Technology LTD, is appearing as a representative of Computer Foundation Firm in the Minutes of Tender Opening Meeting held on 5th July, 2012 at 21st Board Room Anniversary Tower, and not Face Technologies.**
3. **The Computer Foundation Firm was referred to as Face Technology Limited, however the acceptance letter dated 5th July, 2012 refers to the Company as Face Technology.**
4. **The addresses on the contract were different from the letter from Face Technologies.**
5. **The contract appeared to have been prepared in a 'casual' manner.**

Committee Recommendations

1. **There are active criminal proceedings touching on the matter under examination contract for supply, delivery, installation, configuration, training, testing and commissioning of electronic voter identification devices.**

2. **The Committee will, pursuant to the provisions of Standing Order 89, restrain from making any pronouncement that would amount to *sub-judice*.**
3. **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**

468.2 Procurement of Additional 4,600 Electronic Voter Identification Devices (EVIDs)

Examination of e-mail communication between IEBC and the Contractor on 30 January 2013 indicates that the Commission ordered for extra 4,000 units of Voter Identification Devices whose prices would be similar to those of the 30,000 units earlier ordered and contracted for.

The additional hand held EVIDs were purportedly received as follows: -

S/No.	DeliveryDate	DeliveryNote	Item Description	Quantity
1	26.2.2013	0125	HandHeldEVIDs	2,000
2	28.2.2013	0124	HandHeldEVIDs	2,600
Total				**4,600**

The Contractor submitted an invoice dated 6 February 2013 amounting to USD 4,628,746, which was validated as a pending bill by The National Treasury's Internal Audit. The National Treasury issued additional funding amounting to Kshs.388, 562,633.00 (USD 4,628,746) for the payment of the pending obligation.

However, the incoming CEO reviewed the invoice and considered that there was no adequate grounds to support the invoice claim amounting to USD 2,075,572.00, therefore, paid USD 2,553,174.80 (Kshs.259, 020,516.80) to discharge the obligation during financial year 2014/2015.

Submission by the Accounting Officer

1. The payment of Kshs. 259,020,526.80 was valid and legitimate. Also, the 10% variation mentioned in the draft report does not arise since the 30000 EVIDS were not the same as the 4600 EVIDS. The 4600 were handheld devices which were supplied as per the contract.

2. That the supply of the 4600 Handheld EVIDs were supplied at the right contract price of USD 555.038 and correct specifications. The Commission therefore paid as per the contract.

The auditor general noted that under the above circumstances, the responsibility for the procurement of the additional electronic voter identification devices rests with the past management.

1. The explanation by the Accounting Officer that payment of Kshs. 259,020,526.80 was valid and legitimate because the 10% variation mentioned in the draft report did not arise since the 30000 EVIDS were different from the 4600 EVIDS and the 4600 were handheld devices which were supplied as per the contract.
2. That the supply of the 4600 Handheld EVIDs were supplied at the right contract price of USD 555.038 and correct specifications. The Commission therefore paid as per the contract.
3. The Auditor General noted that under the above circumstances, the responsibility for the procurement of the additional electronic voter identification devices rests with the past management.

MR. JAMES OSWAGO

He submitted:

1. That the decision to increase the quantities to 34,000 units was made by Commissioners at the Commission plenary meeting on the following dates:

   10th January 2013 at 10:00 a.m. Minutes 12.16 – Approved procurement of 33,000 kits.

   26th January, 2013 at 10 a.m. Minute 30.02 – The Commission approved the procurement of 34,000 devices, 5000 -10000 being handheld devices and the balance laptop based devices.
2. That the above minutes of the Commission meeting were confirmed at Commission meeting of 7th February, 2013 – MIN 260/2/213.
3. That it should be noted that the Commission sitting at full plenary discussed all aspect of the EVID procurement including receiving presentations from the vendor.
4. That the Secretariat acted in full compliance to the plenary decision. On what Law and basis does the C.E.O take a full plenary decision on procurement to the Tender Committee and what would be the procedure?
5. That the decision to procure additional 4000 kits was a Commission plenary decision made by Commissioners at the Commission plenary meeting on the following dates:

10th January 2013 at 10:00 a.m. Minutes 12.16 – Approved procurement of 33,000 kits

26th January, 2013 at 10 a.m. Minute 30.02 – The commission approved the procurement of 34,000 devices, 5000 -10000 being handheld devices and the balance laptop based devices.

6. That he declined to pay the FACE invoice dated6 February 2013 amounting to USD 4,628,746 because of the following reasons:

   i) That the Invoice included 600 EVID Kits, the items were to be provided for in the absence of a warranty & to cater for lack of local service Centre as reported by Director ICT on his paper to Plenary of 26th January, 2013. These were to be provided for free of cost to the Commission.

   ii) That there was a delivery schedule and it was to be adhered to. The hand held kits arrived late in the day and thus could not be used as intended. A monetary value could be placed on this during negotiations.

   iii) That as per the report of IFES on EVID demo by Ronan McDermott, FACE Technologies were to deliver 3G modems later on. This had not taken place yet.

   iv) That after his exit, Betty Nyabuto became acting C.E.O for over one and half years. She too did not pay.

The FACE Invoice for Payment for Additional 4,600 EVID

Quantity	**Description**	**Unit price (USD)**	**Extended price (USD)**
4,600	Electronic Voter identification Devices (Handheld)	432	1,987,200.00
	Vat and import duty on handheld devices		516,672.00
	IDF(Import Declaration Forms)		44,712.00

	Airport charges		73,508.00
	Logistics , Transport & labor cost		552,000.00
	Material component increase		1,305,000.00
4600	Hand held bags		69,000.00
	Duty on handheld bags		17,250.00
5565	Electrical Power Extension Cables		49,440.00
	Duty on Electrical Power Extension Cables		13,964.00
Total			**4,628,746.00**

That the invoice above sent to the Commission included items which were fictitious, strange or doubtful that should not have been included in it i.e.:

Logistics, Transport & labor cost	USD 552,000.00
Material component increase	USD 1,305,000.00
Hand held bags	USD 69,000.00
Duty on handheld bags	USD 17,250.00
Electrical Power Extension Cables	USD 49,440.00
Duty on Electrical Power Extension Cables	USD 13,964.00

Committee Findings and Observations

1. **The procurement of 4,600 handheld EVIDs was duly approved by the Commission at its plenary meeting**.
2. **Though the electronic voter identification devices largely failed on the day of the general elections of 31st March 2013, they worked perfectly well in the subsequent**

by-elections. Thus the mass failure on the 31st March 2013 can be attributed to lack of preparedness in terms of logistics and training on the part of the IEBC.

3. **Members noted that William Hunter a signatory in the Contract agreement between the IEBC and Face Technology LTD is appearing as a representative of Computer Foundation Firm in the Minutes of Tender Opening Meeting held on 5th July, 2012 at 21st Board Room Anniversary Tower, and not Face Technologies.**
4. **The Computer Foundation Firm was referred to as Face Technology LTD, however the acceptance letter dated 5th July, 2012 refers to the Company as Face Technology.**
5. **The above discrepancies require further interrogation.**
6. **Even though the National Treasury having undertaken an audit, validated the supplier's invoice of USD 4,628,746.00, the IEBC CEO, upon further verification, approved and paid only a portion, amounting to USD 2,553,174.80. The supplier, therefore, still has an outstanding claim of USD 2,075,572.00 – a matter that needs to be resolved one way or the other to avoid possible litigation with the attendant risk of additional cost to the tax payer.**

Committee Recommendations

1. **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**
2. **The EACC and the DCI should investigate the procurement and operation of transport Additional 4,600 Electronic Voter Identification Devices with a view to prosecuting any person found culpable of a criminal offence.**

468.3 Irregular Payment for Transportation of Election Materials

Examination of payment voucher number 482 dated 27 November 2014 reveals that a company was irregularly paid Kshs.50,487,440.00 purporting that it was contracted to transport election materials during the financial year 2012 / 2013, however, audit has established through Registrar's letter Ref. No. CR13 BN/2014/312279 dated 10 May 2016 that the company was registered on 12 September 2014.

In an effort to defeat audit trail, the Commission accepted an irregular request through unreferenced letter dated 13 October, 2014 in which the company purports that payments due to another company previously contracted by the Commission should be paid to them.

In addition, the Commission purports that the company transported election materials using twenty seven (27) vehicles. However, verification of records maintained in ten (10) regions disclosed as stations of their service reveals that only five (5) vehicles were used, and not the twenty-seven which resulted in an excess payment of Kshs.42,679,460.00.

In response to a Draft Audit Report Ref: IEBC/2014-2015/ (7) dated 8 March 2016, the Commission provided additional documents on ten (10) instead of twenty two (22) vehicles, an indication that the Commission is unable to provide satisfactory explanation, information and assistance in writing.

Verification of the additional documents undertaken on 1 April 2016 in which the Commission has “noted” through letter Ref. IEBC/FIN/1/VOL.X(18) dated 6 June 2016 reveals further anomalies as follows:-

(i) Information contained on Counter Requisition and Issue Voucher, S11 Number 0003776 in support of the use of vehicle registration number KBR 829 S at Kakamega Region has not been signed by the requisitioning, issuing and receiving officers. Designations of responsible officers and date of transactions are not indicated on the submitted S11s.

In addition, S11 number 0003776 is not among the issue notes maintained among records at Kakamega Region and verified during audit inspection in February 2016.

(ii) Information contained in Counter Requisition and Issue Voucher, S11 Number 0004221 purports that vehicle registration number KAQ 706 Z was working at Nakuru Region while at the same time it was working in Teso North/ South through another S 11 number 5035244 whose records appear to have been altered.

In addition, Examination of Counter Requisition and Issue Voucher, S11 Number 0003612 shows that vehicle registration number KAU 143 Y was working at Nakuru Region, while the same vehicle is purported to have been working in Isiolo North/ South at the same time.

Further, the Commission purports through Counter Requisition and Issue Voucher, S11 Number 0004236 that Vehicle registration No. KBR 624 H was working in Nakuru. However, verification of field records during the month of February 2016 show that the vehicle was not used in the Region during election.

(iii) Information contained in Counter Requisition and Issue Voucher, S11 Number 5035485 shows that vehicle registration number KAS 395 K was working in Meru Region. However, the same Vehicle was working in KitutuChache Constituency at the same time.

(iv) Examination of Counter Requisition and Issue Voucher, S11 Number 5035206 reveals that vehicle registration number KBR 205 G was working in Malindi Region. However, the same vehicle was working in Mandera North/South Constituencies at the same time.

(v) Examination of Counter Requisition and Issue Voucher, S11 Number 5035471 shows that vehicle registration number KAJ 482 N was working in Malindi Region. However, the same Vehicle was working in Rongai / Bahati Constituencies of Central Rift Region at the same time.

In addition, the same vehicle number KAJ 482 N through the same Counter Requisition and Issue Voucher, S11 Number 5035471 is purported to have been working in Mombasa. However, the same Vehicle was working in Rongai / Bahati Constituencies of Central Rift Region at the same time.

(vi) Although the Commission has now claimed through counter Requisition and Issue Voucher, S11 Number 0003771 that Vehicle registration No. KAC 370 J was working in Machakos, a field verification undertaken in February 2016 shows that the vehicle was not used in the Region.

Similarly, information contained on Counter Requisition and Issue Voucher, S11 Number 0004212 indicates that Vehicle registration No. KAG 164 L was working in Kisumu. However, field verification during the month of February 2016 revealed that the vehicle was not used in the Region during election.

(vii) A further evidence of fraudulent accountability is on the information contained in two (2) different photocopies of the same Counter Requisition and Issue Voucher number 0003769 dated 3 March 2013 for KBK 910 X which is purported to have delivered Polling Booths to Nakuru. The signature on the issue note is deleted on a copy presented later as EVID.

Response by the Accounting Officer

1. Payment to Alhamdul Company was made upon a request by one Mr. AbdullahiYussuf Farah of ID NO. 0052216, Director and proprietor of Alhamdah Hardware.Alhamdah Hardware was among the businesses lawfully awarded the contract for the supply of transport services for the general election. Mr. AbdullahiYussuf Farah swore an affidavit indicating that he was the owner of Alhamdul Company and instructed the Commission to pay the outstanding bill of Ksh.50, 487,440.00 to the new company. No complain has been received by the Commission concerning the same from Alhamdah Hardware.

2. The Commission acknowledges that there was confusion and missing information during the distribution and documentation of materials delivered in the 2013 general election. This was occasioned by challenges in record keeping in the regional warehouse and improperly maintained records during election period due to excessive work overload involved in receiving and issuing of election materials that arrived late just before election day.

3. The Commission has since improved its warehousing, logistics and record keeping processes. In particular, the Commission engaged Postal Corporation of Kenya as its logistics partner to improve the logistical processes and documentation. Further, the Commission has enhanced its warehousing and record keeping capacity.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the Commission paid Ksh.50, 487,440.00 to Mr. Abdullahi Yussuf Farah for transportation of election materials based on an affidavit was questionable as the Accounting Officer did not table any evidence of authority from the National Treasury to make the said payment.**
2. **IEBC failed to prepare and submit to the Committee a detailed brief with counter requisitions, issue vouchers and zoning lists in support of submissions.**

Committee Recommendation

The DCI and EACC should, within three months after adoption of this report, investigate the entire procurement of transport servces by the IEBC and allow for prosection, if evidence allows.

468.4 Examination of Two (2) Payment Vouchers Totaling Kshs.79, 106,538.00

Examination of records show that a company was paid through Payment Voucher Number 298 dated 23 October 2014 an amount of Kshs.6,177,450.00 and another unsigned copy of payment voucher submitted on 18 April 2016 with an amount of Kshs.72,929,088.00 for transportation of election materials during the financial year 2012/2013.

However, information contained in the minutes of tender committee meeting no. 39 held on 13 February 2013 shows in item no 5 that the transporter was authorized to supply 75 trucks for transport services at a cost of Kshs.32,610,060.00. There is no justification for the excess payment of Kshs.46, 496,478.00.

In addition, procurement of these services did not comply with law as the Commission has not provided: -

(a) Tender Registers contrary to Section 60 (5) of the Public Procurement and Disposal Act, 2005.

(b) Tender Opening Committee Minutes contrary to Section 60 (8) (a) of the Public Procurement and Disposal Act, 2005.

(c) Notification of Awards of Contracts contrary to Section 67 (1) and (2) of the Public Procurement and Disposal Act, 2005.

(d) A written and signed contract contrary to Section 68 (1) and (2) of the Public Procurement and Disposal Act, 2005.

(e) Inspection and Acceptance Committee Certificate confirming the delivery of electoral materials contrary to Section 66 (5) of the Public Procurement and Disposal Act, 2005.

Further, examination of availed tender document submitted to the Commission on 18 December 2012 is inaccurate as some documents attached to it are dated 16th and 27th January 2016.

Submission by the Accounting Officer

1. The payment of Ksh.46, 496,478.00 over and above the initial contract amount were payments towards waiting charges for 4 extra days. The waiting was occasioned by late delivery of County Assembly Ward (CAW) ballot papers from United Kingdom.
2. There were six seats of contest during the general election and it could not be possible for the hired Lorries to be released without the CAWs ballot papers since the process of hiring new Lories was not practically possible. Consequently, the service provider claimed additional 7 days as waiting charges. However, after negotiations, 4 days were agreed by the Committee.
3. The Commission submitted copies of all documents requested for during the audit process.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that the payment of Ksh.46, 496,478.00 over and above the initial contract amount were payments towards waiting charges for 4 extra days and that, the waiting was occasioned by late delivery of County Assembly Ward (CAW) ballot papers from United Kingdom was compelling.**
2. **The Accounting Officer submitted the required documents during the audit process.**
3. **The matter was marked as resolved.**

Committee Recommendation

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

468.5 Examination of Payment Vouchers Nos. 396 and 386 Totaling Kshs.92, 342,000.00

Although Section 26 (3) (b) of the Public Procurement and Disposal Act, 2005 requires that all Procurements should be undertaken as per the threshold matrix whose maximum amount set out in the regulations for use of quotation is Kshs.1,000,000.00 for goods, the Commission issued quotations as follows:-

PV No.	Quotation No.	Item Description Item Description as per the order	Amount (Kshs)
396	IEBC/154/2012-13	Print simplified regulations and tallying forms	52,470,000.00
386	IEBC/116/2012-13	Finger Prints, Pads & Indelible Ink	39,872,000.00
Total			**92,342,000.00**

The Commission has not justified the use of quotations instead of open tender method of Procurement, which would have guaranteed competitive bidding and the requisite value for money as required under Section 68 (1) (b) of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

1. It was true the Commission used quotation method to procure the said items for the 2013 general elections; items whose value was above the prescribed threshold. The Commission used quotation method because it was urgent and the goods were to be used during the general election and any other method would not have been practical.
2. The Commission has ever since put in place control measures that have enhanced compliance and improved efficiency and effectiveness in the procurement system.

Committee Observations and Findings

1. **The Commission used quotation method to procure the said items for the 2013 general elections; items whose value was above the prescribed threshold. The Commission used quotation method because it was urgent and the goods were to be used during the general election and any other method would not have been practical.**
2. **The Commission has since put in place control measures that have enhanced compliance and improved efficiency and effectiveness in the procurement system.**

Committee Recommendations

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

468.6 Examination of Payment Vouchers Nos. 218 and 327 Totaling Kshs.365, 239,900.80

Examination of Payments Vouchers reveals that two companies were contracted and paid as follows: -

PV NO.	Tender Number	Item Description as per the order	Amount as per order (Kshs)
218	IEBC 12/2011-12	Supply & Delivery of 49,600 transparent Ballot Boxes	109,119,900.80
327	IEBC/01/2012-13	Supply/Delivery of 337Printers Cannon IR 5035	256,120,000.00
Total			**365,239,900.80**

The following was observed:

(i) Although, the company was paid Kshs.220, 400,000.00 for the supply of 290 printers, no reasons have been given for failure to supply the 337 printers contracted.

(ii) The Commission has not availed copies of the advertisement, tender documents and registers; evaluation reports and minutes of the tender evaluation committee.

In the circumstances, therefore, I am unable to confirm that the payment made in respect of goods and services and paid as pending bills at a total cost of Kshs.846, 196,395.60 was lawful and effective as required under Article 229(6) of the Constitution.

Submission by the Accounting Officer

1. The Commission contracted for 337 printers but only ordered and paid for 290 printers. The Commission had planned to buy printers for all the 47 county and 290 constituency offices. However, since the county offices were temporary with no permanent staff, it would not have been prudent to buy printers for them hence the Commission had to order only the 290 printers, one for each constituency office. The temporary office and county staff were contracted and their contracts ended immediately after the election.
2. Further, by not ordering the 47 printers, meant for counties, the Commission did not suffer any loss.
3. It is true the documents were not availed for audit review. The Commission had not paid the bill due to lack of supporting payment documents. However, the supplier later on sued the Commission for delay and failure to settle the bill. The court, in its wisdom, determined and ordered the Commission to pay the principal amount plus accrued

interest. The Commission had to comply with the court order to pay the supplier the principal amount and the interest. The court decree dated 11th July 2014 and 17th October 2014 is attached for your verification (see Annex 4).

Committee Observations and Findings

1. **The Commission contracted for 337 printers but only ordered and paid for 290 printers. The Commission had planned to buy printers for all the 47 county and 290 constituency offices. However, since the county offices were temporary with no permanent staff, it would not have been prudent to buy printers for them hence the Commission had to order only the 290 printers, one for each constituency office. The temporary office and county staff were contracted and their contracts ended immediately after the election.**
2. **Further, by not ordering the 47 printers, meant for counties, the Commission did not suffer any loss.**
3. **The documents were not availed for audit review. The Commission had not paid the bill due to lack of supporting payment documents. However, the supplier later on sued the Commission for delay and failure to settle the bill. The court, in its wisdom, determined and ordered the Commission to pay the principal amount plus accrued interest. The Commission had to comply with the court order to pay the supplier the principal amount and the interest.**
4. **The matter was marked as resolved.**

469.1 Transfers to Burundi

Records show that 150 Electronic Voter Identification systems (EVIDs) were transferred to Burundi during the year under review. However, audit has revealed unsatisfactory matters as follows: -

The Chairman of the National Independent Electoral Commission of Burundi requested the Government of Kenya through Letter Ref: NIEC/472/2014 dated 9 December 2014 to support and assist them with: -

(a) Unspecified number of Ballot Boxes

(b) Three or Four (4 Wheel Drive) Vehicles

(c) Unspecified number of Photocopier machines

(d) Unspecified number of Laptops.

(ii) In response, the Embassy of Kenya in Bujumbura through a letter Ref: KEBU/CON./POL./05A VOL. 1 (21) dated 10 December 2014 reminded the Chairperson of IEBC of his proposal during a visit to Burundi in November 2014 that Kenya could support Burundi's Electoral Process with 3,000 ballot boxes. The Government through the Chief of Staff and Head of the Public Service approved the request for 'full' support to a sisterly state through a letter Ref: OP/CAB.31/29 A dated 27 January 2015.

(iii) In executing the Government approval, the Commission Secretary/ CEO of IEBC instructed for free transfer/dispatch of 150 EVID laptops in accordance with Section 129 (1), (2) and (3) of Public Procurement and Disposal Act, 2005 in which a disposal committee was formed on 14 April 2015 to dispose "unserviceable, obsolete or surplus stores".

(iv) During a minuted meeting held on 11 March 2016, the Chief Executive Officer stated that the commission had considered the rate at which the EVIDS become obsolete and the fact that they might not be used in the next general elections, therefore, donated 150 EVIDs to Burundi.

On the other hand, while responding to the proposed Draft Audit Report dated 8 March 2016, the Commission Secretary / CEO through a letter Ref: IEBC/FIN./1/Vol.IX (52) dated 21 March 2016 confirms the transfer of EVIDs and BVRs that were in good working condition.

The Commission further explained during a meeting held on 30 May 2016 with the Auditor-General that the EVID laptops were cleaned before being transferred to Burundi through the Ministry of Foreign Affair. However, the transfer of voting laptops whether "cleaned" or not is a sensitive matter that required the Commission to involve stakeholders specified in its Act.

In addition, the equipment were donated free of charge at a time when the Commission has budgetary constraints, and, not able to pay pending bills amounting to Kshs.1,301,913,817.58 and still intended to buy 40,000 new kits.

Submissionby the Accounting Officer

1. The Commission admits having transferred 150 EVID laptops to Ministry of Foreign Affairs which were later donated to Burundi (**see Annex 5A**). The Commission, having received approval from the Office of the Chief of Staff and Head of the Public Service, transferred the laptops after following the necessary disposal procedures in accordance with Section 129(1), (2), and (3) of the Public Procurement Act, 2005. It should be noted that on matters related to procurement of goods and services or disposal of obsolete and unserviceable assets the applicable law is the Public Procurement Act, 2005 and not the Independent Electoral and Boundaries Commission Act, 2011.

2. In addition, involvement of stakeholders is not a requirement when it comes to matters of procurement or disposal so long as the procedures dictated by the Public Procurement Act, 2005 are complied with.

3. With regard to donation of laptops for free when the Commission had budgetary constraint the Commission would like to respond as follows:-

    a) The Commission, due to technological advancement, anticipated that the EVID laptops would be obsolete by the next General election in 2017. It is in this respect that the Commission made plans and budgeted for the procurement of a new system to be used in the 8th August 2017 General Election.

b) The Commission, in compliance with the Election Act (as amended) developed specifications and purchased the Kenya Integrated Election Management Systems (KIEMS) to replace the obsolete EVID laptops. Before the donation was effected, the 150 laptops were sanitized in accordance with the Commission IT Security policy to ensure that they were free of any confidential information.

The Committee invited Mr. Isaack Hassan to shed light in the transfer of 150 Electronic Voter Identification systems (EVIDs) to Burundi in light of the fact he had been named severally.

Mr. Isaack Hassan

He submitted that he acted on the request by of the Chairperson of the electoral body of Burundi and transferred the asset to Ministry of Foreign affairs

Committee Observations and Findings

The kits were a donation by the Government of Kenya upon transfer by the IEBC. The procedure for transfer of kits to another country was not well-defined. However, the Commission used the Procurement law to dispose of the items to the Ministry of Foreign Affairs who later transferred them to Burundi. It should be established what else was transferred to Burundi. The kits that were transferred were part of the 33,000 EVID kits obtained for the 2013 General Election. The Commission has now acquired a new system referred to as KIEMS.

Committee Recommendation

Independent Commissions should keep fidelity to the Constitution and avoid taking instructions from the Executive pursuant to the provisions of Article 249(2)(b) of the Constitution.

469.2 Transfers to Ministry of Devolution

Although 200 Biometric Voter Registers (BVRs) have been explained as having been transferred to Ministry of Devolution, the Commission has not availed any document regarding these transfers and the purpose for the transfer which would contravene Section 72 (3) of the Public Finance Management Act, 2012.

Submission by the Accounting Officer

1. It is true that the Commission transferred 200 Biometric Voter Registration (*BVRs*) laptops to the Ministry of Devolution in 2014.
2. The equipment were transferred in accordance with Section 129(1),(2),and (3) of Procurement and Disposal Act (2005) which refers to procedures for disposal of unserviceable, obsolete or surplus stores. Further, before the transfer was effected, the 150 laptops were sanitized in accordance with the Commission's IT Security policy to ensure that they are free of any confidential information.

3. Owing to the political concerns raised over the transfer, the Commission resolved to recall all the 200 laptops. So far 196 BVR laptops have since been returned to the Commission while the remaining 4 laptops are at Gigiri Police station **(see Annex 5B).**
4. In addition, the assets have been reinstated in the books of accounts and reported in the Commission's financial statements.

469.3 Loss of 48 BVR and Generators at Emgwen Constituency, Nandi County

Audit has also revealed that 48 BVR Valued at Kshs.9,437,658.72 disclosed in Note 18 of the financial statement as disposed were actually stolen from Kapsabet Warehouse, North Rift Region on 23 August 2014. Although the matter was reported to the police, no culprit has been apprehended. In this circumstance, the security of data in terms of back up and control of unauthorized access of both machine and database may not be assured and confirmed by the Commission.

Submission by the Accounting Officer

1. This matter is under investigation.
2. That said the loss did not compromise the security or the integrity of data. The loss had no effect on the security of data in terms of backup and control of unauthorized access to both hardware and the database as the following controls are in place to ensure confidentiality, integrity and availability of the systems and data that resides in it:-
    a) To access the database and the BVR software, users must have access rights that are only assigned by the administrator in headquarter. This assures integrity of the system as well as the data that resides in it.
    b) Data available in the BVR kits is resident in SD cards and not in the hard disk. This data is protected by encrypting using Advanced Encryption Standards (AES) algorithms. Therefore, if anyone were to access the hardware and the SD card they cannot see the data as it would require one to have the decryption keys to decipher. This control assures confidentiality of information in the Kits as well as the SD cards.
    c) The kits are normally used for offline data capture after which it is uploaded on to the central servers through secure point to point links. This essentially means that the voters' data is securely transmitted and stored in the central database system and not on the kits.
    d) To guarantee availability the data captured in the BVR kits is stored in two flash disks (A and B) so that one acts as a backup in case of hardware or software failure. Information in the flash disks is immediately transmitted over secure link to our central database. After the registration exercise, reconciliation is done to

ensure that the data in the physical copies of registration form (form A) agree with what is in the database.

e) Direct access to the central server that hosts the voters' register data is strictly not permitted. This control assures integrity as well as confidentiality of the system and the data that resides in it.

f) In addition, voters are periodically allowed to validate the register during inspection to ensure that their information is correctly captured and to correct any omissions, if any.

g) The Commission has an ICT policy that provides for procedures and standards to assure confidentiality, integrity and availability.

469.4 Generators and Solar Panels

Examination of the fixed assets register and other related records reveals that 68 Olympia generators made in United Kingdom (UK) and 1329 solar panels type SLP42.5-12 maximum power voltage 72.2 voltage weighing 6 kgs are lying idle in various regional offices but have not been disclosed in any of the IEBC inventory.

Due to the incompleteness of records made available for audit, it is not possible to establish the value of these assets, the mode and purpose of their procurement.

Submission by the Accounting Officer

1. The Assets were inherited from the defunct Electoral Commission of Kenya (ECK). The handing over report of the caretaker team to the Interim Independent Electoral and Boundaries Commission contained scanty information on fixed assets to be inherited from ECK. It was therefore difficult to establish the carrying amounts of the generators and the solar panels.
2. The Commission has planned to value the assets inherited from ECK by engaging the services of a professional. This will assist in estimating the optimal value of the inherited assets to be recognized in the fixed assets register. In addition, under new strategic plan, the Commission intends to re-engineer its systems of asset management starting July 2018.
3. The Commission has made accounting estimates based on the market values and included the aforementioned assets in the Fixed Asset Register (see Annex 6)and financial statements. As explained above the Commission is in the processes of engaging a professional valuer to determine the market values of the assets.

Committee Observations and Findings

The Committee ob served that 68 Olympia generators made in United Kingdom (UK) and 1329 solar panels are lying idle in various regional offices and have not been disclosed in

any of the IEBC inventory and that handover contained scanty information on fixed assets from ECK.

470. Inaccurate Pending Bills

Note 20 to the financial statements reflects a figure of Kshs.1,301,913,817.58 against pending bills as follows: -

Particulars	Amount (Kshs)
17 Regions	150,912,156.57
Legal	855,317,251.68
Headquarters	295,684,409.33
TOTAL	**1,301,913,817.58**

A due diligence check of Pending Bills in fifteen (15) Regions, has revealed that Pending bills amounted to Kshs.132,586,361.21 and not Kshs.140,181,106.57 reported by the Commission. No reconciliation has been provided, therefore, accuracy and validity of pending bills amounting to Ksh.150, 912,156.57 as reported in the financial statement could not be confirmed.

Submission by the Accounting Officer

1. The National Treasury carried out an independent audit and verification exercise of the Commission's pending bills that arose out of the 2013 general elections. This was done at the regional offices as well as the Head Office. The total amount of pending bills in the Regional offices was Kshs.178, 605,336.97. Pending bills amounting to Kshs.25, 837,844.40 were not validated and hence the validated pending bills in the regions amounting to Kshs.150, 912,156.57 were recognized as shown in the reconciliation table below. Invalidated pending bills at the regional offices and the Head Office have been disclosed as a contingent liability (note 25) in the financial statements of the Commission in line with IPSAS 19 standards as the Commission believes that it is highly probable that the liabilities will crystallize in future.
2. The difference between the Auditor General's and the Commission's figure arose from the fact that some regions had already settled some of the pending bills or inclusion of bills not validated by the National Treasury audit / verification exercise by the time of the audit.

RECONCILIATION OF REGIONAL PENDING BILLS

S/NO.	OFFICE / REGION	VALIDATED Ksh.	AUDITOR FIGURES	VARIANCE	REMARKS
1	Central Eastern (Meru)	5,170,090.62	5,170,090.62	-	
2	Upper Eastern (Isiolo)	447,742.00	447,742.00	-	
3	Mandera/ Wajir	10,731,050.00	10,731,050.00	-	
4	Lower Eastern (Machakos)	15,093,798.50	15,093,798.50	-	
5	South Coast (Mombasa)	8,382,794.00	12,543,521.00	(4,160,727)	Rejected pending bills by National Treasury Audit/Validation
6	North Coast (Kilifi)	2,754,800.00	3,501,574.00	(746,774)	Rejected pending bills by National Treasury Audit/Validation
7	Lower Central (Thika)	7,022,655.00	7,022,655.00	-	
8	Upper Central (Nyeri)	10,783,030.00	13,425,900.00	(2,642,870)	Rejected pending bills by National Treasury Audit/Validation
9	Nairobi	17,430,813.00	17,430,813.00	-	
10	Bungoma	3,134,950.00	3,134,950.00	-	
11	Kakamega	4,171,667.00	4,566,667.00	(395,000)	Rejected pending bills by National Treasury Audit/Validation
12	South Nyanza (Kisii)	5,823,000.00	5,823,000.00	-	
13	Central Nyanza (Kisumu)	32,071,418.45	6,956,704.00	25,114,714	The difference being amount already paid before the audit verification exercise
14	Central Rift (Nakuru)	300,000.00	886,500.00	(586,500)	Rejected pending bills by National Treasury Audit/Validation
15	North Rift (Eldoret)	27,594,348.00	23,429,758.00	4,164,590	The difference being amount already paid before the audit verification exercise
	Totals Ksh.	**150,912,156.57**	**130,164,723.12**	**20,747,433.45**	

471. Irregular Procurement of Election Materials

In my report for 2012/2013, unsatisfactory matters were reported in relation to procurement of several election equipment including Biometric Voter Registration (BVR) Kits at a cost of Kshs.6.4 billion, Electronic Voter Identification Devices (EVIDS) Kshs.1.3 billion, Universal Poling Kits (UPK) at Kshs.1.53 billion and Electronic Results Transmission System (ERTS) Kshs.25.8 million. The Commission did not have an approved Procurement Plan for the year;

therefore the above items were procured contrary to the provisions of Public Procurement and Disposal Act, 2005.

Submission by the Accounting Officer

1. The Commission procured several electronic equipment including BVR, EVID and Electronic Results Transmission System (ERTS) as per the Commission's Procurement Plan presented to the Auditor General.
2. The Commission did not procure Universal Poling Kits as planned. The subject matter with respect to the Kshs. 1.53 billion was the acquisition of 102,000 metal detectors which were not approved by the Commission neither were they delivered.

Committee Recommendation

Accounting Offcers must at all times be guided by the law in the execution of procurement plans and must submit to the Auditor-General all the requisite documents for audit review in a timely manner.

32.0. PARLIAMENTARY SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 204

Mr. Jeremiah Nyegenye, the Secretary to the Commission and Accounting Officer appeared before the Committee in 1st December, 2016 accompanied by the following officers, Mr. Justin Bundi; ClerkNational Assembly, Dr. George Wakah; Ag. Director Finance and Accounting and Mr. Peter Meikoki-Chief Accountantto adduceevidence on the audited Financial Statements of Vote204 Parliamentary Service Commission for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached in this report.

Basis for qualified opinion

473. Foreign TravelExpenditure

Examination of the Commission's payment records indicate that amounts totaling Ksh.79,501,127.00 were paid to various travel companies on account of issuing air tickets during the year under review. These payments were not supported with documentation including copies of confirmed air tickets, boarding passes and passport entry/exit stamps. In the circumstance, it is not possible to confirm the validity and legality of payments totaling Kshs.79,501,127.00 to travel companies.

Committee Observations and Findings

The Committee treated the matter as resolved.

474. Officeand GeneralSuppliesand Services

During the year under review the Commission paid a total of Kshs.81,131,550.00 on account of goods under office and general supplies relating to fraudulent procurement of tonners whose documents are held at the Directorate of Criminal Investigation, hence unavailable for audit review. In the circumstance, it has not been possible to confirm that goods valued at Kshs.81,131,550.00 were lawfully and effectively acquired under Article 229(6) of Constitution.

Committee Observations and Findings

The Committee observed that the matter remain unresolved as the documents relating to officeand generalsuppliesand services were with the Directorate of Criminal Investigations and the matter was live in court.

475. PendingBills

Examination of Pending Bills reveals that bills totaling Kshs.6,358,500 were outstanding as at June 2015. Information and documentation availed indicate that the Commission ordered and received Toner Cartridges for computers, photocopiers and equipment that could not be physically verified in the Commission.

Committee Observations and Findings

The Committee observed that matter was outstanding as there were still pending bills of Kshs. 6,358,500.00 and were to be settled in the next financial year.

Committee Recommendations

The Accounting Officer must ensure that the matter is listed as first charge in the subsequent year pursuant to the provisions of section __________of the Public Finance Management Act, 2012.

Other Matters

476. Imprest

Examination of imprest payments totaling Kshs.8,931,430.00 to staff attached to various committees and subsequent surrender documentation revealed the following irregularities:-

476.1 A payment of Kshs.4,400,570.00 on account of Public Investment Committee meeting was not supported with documentation including the list of attendees.

Committee Observations and Findings

The Committee treated the matter as resolved.

476.2 Examination of imprest payments totaling Kshs.8,931,430.00 to staff attached to various committees and subsequent surrender documentation revealed the following irregularities:-.

Committee Observations and Findings

The Committee treated the matter as resolved.

476. Two imprest surrenders of Kshs.1,462,640.00 and Kshs.795,720.00 were not supported with the relevant documentary evidence, hence the propriety of these payments could not be confirmed. Committee Observations and Findings

The Committee treated the matter as resolved.

476.4 The Commission paid Kshs.1,215,500.00 to a local company in respect of accommodation provided to thirty three (33) National Lands Committee members. No documentary evidence has been produced to support the procurement and payment.

My opinion is not qualified in respect to this matter.

Committee Observations and Findings

The Committee treated the matter as resolved.

PARLIAMENTARY CAR LOAN SCHEME

FUND UnqualifiedOpinion

There wasnomaterial issues notedduring theauditofthefinancial statements.

PARLIAMENTARYMORTGAGE SCHEME FUND

Unqualified Opinion

There was no material issues noted during the audit of the financial statements

33.0. JUDICIAL SERVICE COMMISSION

FINACIAL STATEMENTS FOR VOTE 205

Mrs Anne Amadi, CBS the accounting officer and the Secretary Judicial Service Commission appeared before the Committee on 24th April 2018 and 26th April accompanied by David Rapando; Chief Finance Officer, Frida Mokaya; Registrar Judicial Service Commission, Ronald Wanyama; Ag. Director Audit and Risk Management, Edwin Mureti Mbu; Senior Finance Officer, Sharaon Mwanyuli; Resident Magistrate to adduce evidence on the audited Financial Statements of Vote 205 Judicial Service Commission for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached in this report.

477. Unaccounted for Imprest

I draw attention to Note 5 to the financial statement which indicates outstanding imprests as at 30 June 2015. During the year under review, imprests totaling Kshs.3, 336,692.35 were issued as per records maintained by the Commission and had not been surrendered as at 30 June 2015.

My opinion is not qualified in respect of this matter.

Submission by the Accounting Officer

Some of the Commission's activities took place towards the end of the financial year of 2014/2015 hence most officers who were holding imprest had not availed surrender documents at the time of the audit. However, all the officers have since availed the supporting documents and the outstanding imprests have been cleared. Documents in support of the surrendered imprests are available for review by the audit team.

Committee Observations and Findings

1. **Members observed that the imprest has since been cleared**
2. **The query has been resolved**

Other Matter

The Commission does not have a disaster recovery program and backups in place to assure on data security and integrity. Further, internal audit reports were not availed for audit review. Minutes of the audit committee meetings were also not availed.

My opinion is however, not qualified on this matter.

Submission by the Accounting Officer

A. The Judicial Service Commission has a Risk Management procedure and Disaster Recovery programme. To this end the all commission's data in computers is backed up on external hard disks and all manual files have been scanned and stored in external hard disks. The external hard disks are stored outside the Commission Offices.

In its financial management, the Judicial Service Commission like other institutions in the National and County Governments relies on the Integrated Financial Management Systems (IFMIS) which is managed by the National Treasury. The IFMIS has Disaster Recovery Plan (DRP) and Business Continuity Plan (BCP) which is implemented in case of a disaster. This ensures recovery and continuity of financial management and reporting at the Judicial Service Commission.

The minutes of full Judicial Service Commission and its committees meetings, including the Audit, Governance and Risk Management Committee meetings are available at the Judicial Service.

Committee Observation and Findings

1. **The explanation by the Accounting Officer that documents relating to the unaccounted for imprest were submitted, reviewed and verified by the Auditor General. The Auditor General confirmed the status.**
2. **The matter relating to unaccounted for imprest stands resolved.**

Committee Recommendation

Accounting officers must ensure that they submit the accounts no later than three months after the end of each financial year, the accounting officer for the entity shall submit the entity's financial statements to the Auditor-General pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

Submission by Accounting Officer

B. The Commission procured a containerized Data Centre in 2013 which was delivered and commissioned under Contract No. JUD/CON/22/201 by M/S Dimension Data. The Project was highlighted by the Public Accounts Committee (PAC) as an audit issue in its report findings in the 2014 Special Audit. The Containerized Data Center has been in use as from 1st May 2015 to date and it's a resource that the Judiciary can avail for use by other government Agencies for backing up their ICT systems.

In a letter dated 3rd March 2017, M/S Dimension Data demanded for payment of the outstanding balance of Kshs 21,344,009. The said company has continued to make demand for payment of this sum and there was a danger of escalating the same into a legal claim, something that the Commission was keen to avoid the mater turning into a legal claim including the interest the claim attracts. The Commission sought direction on how to dispose the matter.

The Commission had availed minutes of the audit committee meetings and internal audit reports for audit review.

Committee Observations and Findings

1. **The Commission had a Containerized Data Center which has been in use as from 1st May 2015 to date and therefor the Commission has a disaster recovery program and backups in place to assure on data security.**
2. **The procurement of the Containerized Data Center was the matter of special audit by the Public Accounts Committee in the 11th Parliament.**
3. **The Commission owes M/S Dimension Data the outstanding balance of Kshs 21,344,009.**
4. **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should proceed to pay Kshs. 21,344,009 and accompanying interest to avoid the matter escalating into a legal claim.

34.0. COMMISSION ON REVENUE ALLOCATION

FINANCIAL STATEMENTS FOR VOTE 206

UnqualifiedOpinion

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

35.0. PUBLIC SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 207

Unqualified Opinion

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

36.0. SALARIES AND REMUNERATION COMMISSION
FINANCIAL STATEMENTS FOR VOTE 208

Unqualified Opinion

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

37.0. TEACHERS SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 209

Ms. Nancy N. Machariathe accounting officer Teachers Service Commission appeared before the Committee on 2018 and accompanied by Mr. Nicholas M Mwaniki; Senior Deputy Director, Allan M. Sitima; Legal Officer, Ms. Grace Ngure ; Ag Director, Ms. Caroline Macharia; Ag Senior Deputy Director, Mr. Charles G. Mahungu; Ag Director Internal Audit, Mr. Joseph Olwangi; Ag Director (IA), Mr. Japheth Kaunyu; Chief Accountant, Mr. John Karanja; Ag Deputy Director, Mr Hilary Limo; Accounts 8th May, 2018 to adduce evidence on the audited Financial Statements of Vote 209 Teachers Service Commission for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached in this report.

478. Going Concern

During the year 2014/2015, the Commission incurred a deficit of Kshs.4, 577,727,356 (2013/2014 – surplus: Kshs.221, 016,694) resulting in an accumulated deficit of Kshs.2, 595,271,851 as at 30 June 2015. Further the current liabilities of Kshs.5,251,126,568 exceeded the current assets of Kshs.1,244,081,251 by a negative working capital of Kshs.4,007,045,317 as at 30 June 2015. The management has attributed the poor performance to low funding from the National Treasury. The financial statements of the Commission have therefore been prepared on a going concern basis on the assumption of continued support from the Government and its creditors.

Submission by the Accounting Officer

At the closure of FY 2013/14 the Commission had not received exchequer releases as per approved budget, to the tune of Kshs. 4,577,727,356.00. Treasury then issued a circular allowing MDA's clear pending bills from 2015/16 funds. They further received Kshs. 4,856,740,000.00 from supplementary estimates.

Committee Findings and Observations

1. **The explanation by the Accounting Officer that at the closure of FY 2013/14 the Commission had not received exchequer releases as per approved budget, to the tune of Kshs. 4,577,727,356.00 and Treasury had issued a circular allowing MDA's clear pending bills from 2015/16 funds was persuasive. However the Accounting Officer had not tabled the circular in support of his submission.**

Committee Recommendation

The Committee marked the matter as resolved.

479. Stores and Cash losses.

Included in the receivables from exchange transactions balance of Kshs. 372,433,024 as at 30 June 2015, are 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 that the suspect 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 in a Court of Law, and the case was ongoing as at the date of this report.

In addition, included in the balance of Kshs. 372,433,024 is a long outstanding Pay As You Earn (PAYE) amount of Kshs. 128,392,939 which was paid to Kenya Revenue Authority (KRA) on account of former teachers who deserted their jobs and their salaries were returned to the Commission. The PAYE had not been recovered as at the date of this report.

In the circumstances, it has not been possible to confirm the recoverability of the receivables from non-exchange transactions totaling Kshs. 141,808,853 as at 30 June 2015.

Submission by the Accounting Officer

The matter of loss of Kshs. 10,487,516.00 was about stolen 30 CISCO Access Switches. The matter was in court as the suspect had been arrested and charged. The loss of Kshs. 2,928,398.00 was occasioned by theft during payment of salaries in cash and the suspects are before courts. The refund of Kshs. 128,392,939.00 PAYE funds had been resolved with KRA, who were willing to refund Kshs. 46,060,915, and the process was ongoing.

Committee Observations and Findings

1. **The explanation of the Accounting Officer relating to stolen 30 CISCO Access Switches worth Kshs. 10,487,516.00 was persuasive. However, the Accounting Officer did not table any documents in support of her submission**
2. **The Commission received a refund of Kshs.46, 060,915 from KRA and subsequently sought authority to write off the debt of Kshs.68, 802,494.55 from the National Assembly.**

Committee Recommendations

1. **The Committee marked the matter as resolved.**
2. **Accounting Officers must ensure that they provide information on any fraud, losses, and explanation for the actions taken to prevent a similar problem in future within three months of the adoption of this report pursuant to he provisions of section 68(2)(m) of the Public Finance Management Act, 2012.**

480. Property, Plant and Equipment

The property, plant and equipment balance of Kshs.2,532,467,445 as at 30 June 2015 includes Kshs.805,166 being the residue value of eleven (11) motor vehicles procured between 1996 and 2004 for a total cost of Kshs.26,450,711. Although the eleven (11) motor vehicles were still in good working condition as at the date of this report, their reported residue value of Kshs. 805,166 as at 30 June 2015 appears way below their market value.

In the circumstances, it has not been possible to confirm that the property, plant and equipment balance of Kshs. 2,532,467,445 as at 30 June 2015 is fairly stated.

Submission by the Accounting Officer

Nine of the vehicles had been revalued so far at Kshs. 3,854,274.00 while the other two were being pursued.

Committee Observations and Findings

The explanation by the Accounting Officer that nine of the vehicles had been revalued so far at Kshs. 3,854,274.00 while the other two were being pursued was sufficient.

Committee Recommendations

The Committee marked the matter as resolved.

Other Matter

481. Budgetary Control and Performance

The Teachers Service Commission had a total development budget of Kshs. 135,000,000 voted for the financial year 2014/2015 for the construction of TSC County offices. However, the Commission did not receive any development funds during the year under review resulting in 100% under absorption as indicated:-

Item	Budgeted Allocation 2014/2015	Actual 2014/2015	Under Absorption	Absorption in %
Development	135,000,000	-	135,000,000	100
Total	**135,000,000**	**-**	**135,000,000**	**100**

It is doubtful if the Commission achieved its objective and mandate for construction of the intended buildings for services in the Counties.

Submission by the Accounting Officer

The work stalled because the Commission had not acquired allotment letters on the sites at the time. They had currently acquired some of the allotment letters and the funds were re-allocated in the revised estimates for FY 2015/16. Work was set to start.

Committee Observations and Findings

The Committee observed that budgetary performances in noble projects were being undermined by matters that could easily be solved intra-government.

Committee Recommendations

1. **The Commission should immediately acquire allotment letters in the remaining counties and complete the constructions by end of the financial year.**

38.0. NATIONAL POLICE SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 210

Mr. Ojango Omumu, the Accounting Officer appeared before the PAC Committee on Tuesday 29th November, 2016accompanied by the following officers, R. Odegi Oyile-Director, Corporate Support Services, Ms. Esther Kitonyi-Manager, Accounts, Mr. Mbindyo Racheal-Manager, Supply Chain Management and Mr. Okinda Obor-Deputy Director, Human Resource Management to adduce evidence on the audited Financial Statements of Vote210 National Police Service Commission for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached in this report.

482. Use of Goods and Services

The financial statements reflect an expenditure of Ksh.179,806,887.00 under Use of Goods and Services which includes payments for expenditure totaling Ksh.80,849,299.00 irregularly incurred as follows: -

482.1 Irregular Procurement of Medical Insurance Cover

The Commission procured staff medical insurance cover through direct procurement at a cost of Kshs.26,478,684.00 contrary to Article 227 of the Constitution of Kenya, 2010; Section 29(1) of the Public Procurement and Disposal Act, 2005 and Section 62(3) of the Public Procurement and Disposal Regulations 2006. Consequently, propriety of Kshs. 26,478,684.00 incurred on medical cover during the year could not be ascertained.

Submission by Accounting Officer

The matter was reported as outstanding because the direct tender was already awarded**.**

Committee Observations and Findings

1. **The use of direct procurement at a cost of Kshs.26, 478,684.00 was contrary to Article 227 of the Constitution of Kenya, 2010 and section 29(1) of the Public Procurement and Disposal Act, 2005 and Section 62(3) of the Public Procurement and Disposal Regulations 2006 pursuant to an admission by the Accounting officer.**
2. **The Accounting Officer during the period under review was the secretary to the Commission.**
3. **The matter remains unresolved.**

Committee recommendation

1. **The Accounting Officer should submit justification to the Auditor General for undertaking direct procurement at a cost of Kshs.26, 478,684.00 contrary to Article 227 of the Constitution of Kenya, 2010, section 29(1) of the Public Procurement and Disposal Act, 2005 and section 62(3) of the Public Procurement and Disposal Regulations 2006.**
2. **Where the Accounting Officer fails to submit the justification under paragraph (1) The Committee should proceed to recommend that the officer be surcharged Kshs.26, 478,684.00 deficiently incurred in the direct procurement of the medical insurance cover.**

482.2 Unsupported Rent Payments

The Commission occupies four (4) floors at Skypark Building, LR. No.1870/IX/167 and pays annual rental cost of Kshs. 54,370,615.00. However, no lease agreement has been signed between the landlord and the Commission. Under the circumstances, the validity of the annual rental payments could not be ascertained.

Submission by the Accounting Officer

The lease agreement was not signed because of outstanding contentious issues between the Ministry of Public Works, Lands and Housing and the landlord. Current rent payments were based on a binding Head of Terms Agreement. The Commission was still engaging the ministry and the Attorney General.

Committee Observation and Findings

1. **The Committeeobserved that the Commission took possession of the premises and even partitioned it without having signed a lease.**
2. **The matter remains unresolved.**

Committee recommendations

Accounting Officers must ensure that all contracts entered into by the entity are lawful and are complied with pursuant to the provisions of section 68(2)(d) of the Public Finance Management Act, 2012.

483. Irregular Payment of Meal Allowances

Records availed for audit show that the Commission paid meal allowances totaling Kshs. 6,879,500.00 to officers who were performing normal duties contrary to Section J.6 of the Code of Regulations, 2006 and Circular letter Ref. No. MSPS18/2A/ (89) which require that meal allowances should be paid to officers travelling on duty. In this circumstance, it is not possible to confirm the validity of Kshs. 6,879,500.00 incurred on meal allowance.

Submission by the Accounting Officer

The payments were made to officers engaged in the vetting process, who worked extra hours. The payments made were less than the alternative of payment of overtime, a sum which the Commission did not have.

Committee Observations and Findings

1. **The Accounting Officers explanation that the Commission paid meal allowances to officers engaged in the vetting process, who worked extra hours in place of alternative of payment of overtime the allowances was unsatisfactory as all allowances are defined by the Salaries and Remunerations Commission, are not arbitrary and contradicted to Regulation J.6 of the Code of Regulations, 2006 and Circular letter Ref. No. MSPS18/2A/ (89).**
2. **The Accounting Officer during the period under review was the secretary to the Commission.**

Committee recommendations

1. **TheAccounting Officer should submit justification to the Auditor General for paying meal allowances to officers of Kshs. 6,879,500.00 contrary to theRegulation J.6 of the Code of Regulations, 2006 and Circular letter Ref. No. MSPS18/2A/ (89).**
2. **Where the Accounting Officer fails to submit the justification under paragraph (1) the Auditor General should proceed to recommend that the officer be surcharged Kshs. 6,879,500.00 deficiently incurred in the irregular payment of meal allowances within (3) three months of adoption of this report.**

484. Acquisition of Assets

The financial statements further reflect a balance of Ksh.70,359,063.00 against Acquisition of Assets, however, unsatisfactory matters have been observed on Refurbishment of Buildings and Motor Vehicles as follows: -

484.1 Refurbishment of Buildings

484.1.1 Delay in Project Implementation

Although clause 13 of the conditions of contract require that a contractor should provide a programme of work, audit inspections undertaken during the month of September 2015 revealed that contracted works that started on 5 April 2013 for twenty four (24) weeks had not been completed.

Submission by the Accounting Officer

The building faced delays after the Departmental Committee on Administration and National Security negotiated the cost of works downwards from Kshs. 189,961,612.00 to Kshs. 139,953,779.00, with the concurrence of the contractor. Exchequer issuance delays also delayed progress of works. The refurbishment was completed and occupied, awaiting the expiry of the defects liability period to obtain certificate of completion.

Committee Observation and Finding

The Committee observed that the refurbishment was completed and occupied.

Committee recommendation

The Committee marked the matter was resolved.

484.1.2 Liquidated Damages

Although recovery of liquidated damages is a requirement under clause 27 of the Conditions of Contracts, this provision is missing from the Contract therefore, causing delay in delivery of the project. In the circumstance, there are indications of poor project planning and weaknesses in project supervision.

Submission by the Accounting Officer

This was an inadvertent omission on the part of the drafters of the contract, which the Commission had no expertise at the time to arrest. He endeavored to ensure future contracts would be properly done.

Committee Observations and Findings

The Commission was negligent when it entered a contract that did not have a clause for liquidated damages.

Committee recommendations

Accounting Officers must ensure that all contracts entered into by the entity are lawful pursuant to the provisions of section 68(2)(d) of the Public Finance Management Act, 2012.

484.1.3 Unexplained Introduction of New Contract

Although the Commission awarded the contract at a tender sum of Kshs. 189,961,612.00, the Parliamentary Committee on Administration in consultation with the Commission met on 3 June 2013 and revised the contract sum to Kshs. 139,953,779.00.

Further, during a site meeting held on 27 January 2014, the Project Manager advised the Commission to seek authority from the tender committee to vary the contract sum from Kshs. 189,961,612.00 to Ksh. 139,953,779.00. However, the tender committee's approval has not been availed for audit verification, an indication that the project cost could have been exaggerated and tax payers would still bear the cost.

Although the Commission purports that the contract sum has been revised to Kshs. 139,953,779.00, the justification of paying the same contractor using Local Service Order No.1040259 for Kshs. 24,136,949.00 under a separate contract No. NBI/D07/63/2012-13 instead of the existing contract No. as NBI/D01/81/2012-2013 has not been explained.

Submission by the Accounting Officer

There was no new contract, and the correct one was NBI/D01/81/2012-2013. The other one was unknown to the Commission and was probably a typographical error. The variation had been approved by the then Ministry of Lands, Housing and Urban Development. Kshs. 118,669,421 had been paid so far with the balance of Kshs. 21,284,357.25 awaiting the last certificate.

Committee Observation and Findings

Accounting Officers must ensure that proper management and control of, and accounting for their finances in order to promote the efficient and effective use of budgetary resources pursuant to the provisions of section 68(2)(m) of the Public Finance Management Act, 2012.

484.2 Missing Motor Vehicle Logbooks

The summary of fixed assets register annexed to the financial statements show that the value of fixed assets of Kshs. 153,763,517.00 includes motor vehicles purchased at a cost of Kshs. 117,552,095.00.

However, the Commission has not availed logbooks for twelve (12) motor vehicles, explaining that they were handed for safe custody to the former Commission Secretary who did not hand over the same to the Commission.

Although, it has been explained that the matter has been referred to Director of Criminal Investigation (DCI) for investigation and Director of Public Prosecution for prosecution, the Commission still does not have evidence of ownership of the twelve (12) vehicles.

Submissionby the Accounting Officer

The Commission had initiated the process to replace the missing log books by paying all requisite fees. The logbooks would be delivered at any time.

Committee Observations and Findings

The Commission should report the status of replacement of the logbooks to the Auditor General with a view to resolving the matter, within three months of the adoption of this report.

485. Pending Bills

Examinations of records show that the Commission had pending bills of Kshs.14,144,988.00 relating to financial year 2013/2014, which increased to Kshs.20,141,098.00 in the financial year 2014/2015 by Kshs.5,996,110.00.The bills were not settled during the year but were instead carried forward to 2015/2016. Had the bills been paid and expenditure charged to the accounts for 2014/2015, the Statement of Receipts and Payments would have reflected a Net Deficit of Kshs. 20,135,228.00 instead Net Surplus of Kshs. 5,870.00 now shown.

Committee Observations and Findings

The matter had been resolved as pending bills had been cleared as 1st charge during the subsequent financial year.

Committee Recommendations

The Committee marked the matter was resolved.

39.0. THE OFFICE OF THE CONTROLLER OF BUDGET

FINANCIAL STATEMENTS FOR VOTE 212

Unqualified Opinion

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

40.0. COMMISSION ON ADMINISTRATIVE JUSTICE

FINANCIAL STATEMENTS FOR VOTE 213

Ms Agness Odhiambo the accounting officer appeared before the Committee accompanied Ms Macklin A. Ogolla; Director CS, Ms Selina Iseme; Director IS, Mr. Joshua M. Musyimi; Director Research and Planning, Mr. Patric Kamore; Chief Finance Officer, Mr. Joseph M. Tulula; Chief Accountant on 4th May, 2018 to adduce evidence on the audited Financial Statements of Vote 213Commission on Administrative Justice for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached in this report.

486. Pending Bills

The Commission records as at 30 June 2015 reflect pending bills totaling Kshs. 4,561,860.00 relating to 2014/2015 financial year. No reason has been provided for failure to clear the pending bills as at 30 June 2015 with the financial statements reflecting bank balances of Kshs. 64,711,353 and recorded surplus of Kshs. 10,744,222.40.

Submission by the Accounting Officer

It was true that in the period under review 2014/15 financial year, the Commission on Administrative Justice (CAJ) carried forward pending bills amounting to Kshs.4, 561,860 and a bank balance of Kshs.64, 711,353. The Commission wishes to clarify that part of the balances amounting to Kshs.41,928,548.65 was in the Commission's deposit account(**Appendix I),** being monies held for staff gratuity and contractor's retention in respect of office partitioning carried out within the 2014/15 financial year hence the funds could not be utilized to settle the pending bills. Out of the total balances, another Kshs.26, 000,000 was only credited in our recurrent account by the National Treasury on 1st July 2015 even though we received the notification on 30th June 2015**Appendix 2**. Given that the exchequer release was on the closure of the 2014/15 financial year, the Commission had no capacity to utilize the amount. In addition, the IFMIS portal had been switched off and therefore, no transaction could have been carried out.

He also noted that the commission encountered challenges beyond its control, which hindered timely settlement of the pending bills in question as follows:

1. Late uploading of the third quarter allocation on the IFMIS Portal caused a delay in initiating the procurement process of planned activities, given that for the process to commence; sufficient funds must be available on the IFMIS platform to initiate

transactions on the e-procurement portal. As a result, there was delay in placing the order which in turn affected the deliveries which were made on 30th June. Some of the goods and services ordered for the financial year under reference were invoiced on or after 30th June 2015 which was the closure of the financial year and could not therefore be settled within the 2014/15 financial year, due to IFMIS.

2. Some of the payments which had been processed through the IFMIS did not go through due to system error, which was only detected after the closure of the financial year. This is because the platform which is administered by the National Treasury was disabled by 30th June 2015 hence no transaction could be processed.
3. He continued that the Commission has since settled all the bills in question as indicated in the attached list, and has ensured that most of the goods and services are procured within the 1st, 2nd, and 3rd quarters to avoid last minute rush.

Committee Observations and Findings

1. **The explanation by the Accounting Officer that there was delay in placing the order occasioned by the late uploading of the third quarter allocation on the IFMIS Portal, which in turn affected the deliveries which were made on 30th June and some of the goods and services ordered for the financial year under reference were invoiced on or after 30th June 2015 which was the closure of the financial year and could not therefore be settled within the 2014/15 financial year, due to IFMIS reconciliations was reasonable.**
2. **The matter stands resolved.**

Committee Recommendation

Accounting Officers must always ensure that they 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)€ of the Public Finance Management Act, 2012.

41.0. NATIONAL GENDER AND EQUALITY COMMISSION
FINANCIAL STATEMENTS FOR VOTE 214

Mr. Paul Kuria, the Ag. CEO and the Accounting Officer appeared before the PAC Committee of the 11th Parliament on Tuesday, 29th November, 2016accompanied by Mr. Nemwel Motanya-Senior Assistant Accountant General, Ms. Goretty Osor-Principal Programme Officer, Mr. Mathew Musau-Procurement Officer, Ms. Sarah Baraza-Finance Manager and Mr. Daniel Watere-Communications Officerto adduce evidence on the audited Financial Statements of Vote 214 National National Gender and Equality Commission for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached in this report.

487. Procurement

487.1 Medical Cover

Information available indicates that the Commission awarded an annual contract to offer medical services at a tender sum of Kshs.10, 760,000.00. However no reason has been given for failure to award the same contract to the lowest evaluated bidder at Kshs.9, 405,548.00. Consequently, the payment of extra money amounting to Kshs.1, 354,452.00 contravenes Section 68(1) (b) of the Public Finance Management Act, 2012.

Committee Observations and Findings

The Accounting Officer informed the Committee that the matter had been resolved with concurrence from the Auditor General.

Committee recommendations

The Committee marked the matter as resolved.

487.2 Group Life Cover

Further, an insurance company was awarded an annual contract to offer group life cover to the Commission at a tender sum of Kshs.797, 174.00. However, payment records availed confirmed that another insurance company whose price was Kshs.1, 308,178.00 was paid for the services. No justification was provided for this irregularity that occasioned Kshs.511, 004 loss of public funds.

Submission by the Accounting Officer

The Accounting Officer informed the Committee that the matter had been resolved with concurrence from the Auditor General.

Committee Observations and Findings

The Committee marked the matter was resolved.

488. Refurbishment and Partitioning Works

Included in the statement of receipts and payments is an expenditure of Kshs.22, 499,995.90 under acquisition of assets as at 30 June 2015. According to information available, an amount of Kshs.9, 750,626.25 was paid to various contractors in respect of refurbishment and partitioning works undertaken at the Commission's Headquarters, Nakuru and Kisumu Offices.

However, it was observed that the contract works were undertaken without the production of bill of quantities, certifications and supervision from the Ministry of Lands, Housing and Urban Development. In the circumstance, it has not been possible to confirm that value for money was obtained in the expenditure totaling Kshs.9, 750,626.25.

Submission by the Accounting Officer

The Commission procured competitively a private firm to undertake the bills of quantities and supervision of the works. The list of bidders was obtained from the PPOA website (Registered with Board Registration of Architects and Quantity Surveyors - BORAQS). This was after efforts to involve the Ministry of Public Works bore no fruit.

Committee Observations and Findings

1. **The Committee noted that the Commission did not demonstrate to the Auditor General the effort to initially contact the Ministry of Public Works before resorting to private entities, within two weeks.**
2. **The matter remains unresolved**.

Committee recommendations

Accounting Officer should within (3) three months of adoption of this report provide a justification why they used private entities

489. Irregular Issuance of Imprests

The Commission made payments in form of imprests totaling Kshs.13, 032,623.95 using payment vouchers that were paid to various officers including the Commissioners to undertake various activities across the country. No reason has been given for issue of imprest without imprest warrants. In addition, twenty five (25) officers were issued with additional Imprests totaling Kshs.10, 965,230.95 before surrendering the amounts previously issued contrary to the financial regulations in place.

Submission by the Accounting Officer

That the imprest warrants were out of stock at the government printer at the time. Imprest management was then manual, but had since been automated. Only officers who were engaged in back to back activities held more than one imprest. Currently, no officer at the Commission had outstanding imprest.

Committee Observations and Findings

1. **The imprest warrants were out of stock at the government printer at the time. Imprest management was then manual, but had since been automated. Only officers who were engaged in back to back activities held more than one imprest. Currently, no officer at the Commission had outstanding imprest.**
2. **Members noted that imprest management was widely mismanaged across government but noted that the matter was now resolved as there were no outstanding imprests.**
3. **The Committee marked the matter was resolved.**

Committee recommendations

Accounting Officers must ensure that they comply with the framework laid out for management of inprests under Regulation 93 of the Public Finance Management (National Government) Regulations, 2015.

490. Inaccuracies of Financial Statements

490.1 Accounts Payable

The statement of financial position as at 30 June 2015 reflects financial year 2013/14 comparative balances of Kshs.2, 546,040.00 against accounts payables (deposits), of which the previous year's audited statement reflects a nil balance. The net financial position of Kshs.15, 689,378 also differs with the same amount. The variances need to be reconciled.

Committee Observations and Findings

1. **The Accounting Officer had submitted documents relating to Accounts Payable under paragraph 490.1 for review and had been verified by the Auditor General;**

Committee recommendations

The Committee marked the matter as resolved.

490.2 Statement of Cash Flows

The statement of cash flows reflects erroneous balances brought forward from 2013/2014 as follows: -

Description	**Balance as per statement for 2013/2014 (Kshs.)**	**Balance as per statement for 2014/2015 (Kshs.)**	**Difference (Kshs.)**
1. Changes in accounts payable	Nil	2,546, 040.00	2,546,040.00
2. Net Cash flows from operating activities	40,511,000.00	180,981,960.00	140,470,960.00
3. Net increase in Cash and Cash Equivalent	9,917,000.00	7,370,960.00	2,546,040.00

Consequently, it has not been possible to confirm the accuracy of the balances in these financial statements.

Submission by Accounting Officer

This matter had been resolved as reconciliations had been done**.**

Committee Observations and Findings

Members noted that had he Accounting Officer submitted this information promptly, this matter would not have been an audit query.

DONOR FUNDED PROJECTS

NATIONAL GENDER AND EQUALITY COMMISSION - NORWEGIAN FUND PROJECT

491. Financial Statements Submission

Although the Government financial year ends at 30 June of every year, these financial statements have been prepared for the period ending 30 September 2015. As per the project agreement between the Commission, Partners and the Norwegian Ministry of Foreign Affairs, the financial statement was to be prepared for the project's life of between August 2014 to September, 2015.

Committee Observations and Findings

1. **The Accounting Officer had submitted documents relating to Financial Statements Submissionunder paragraph 491 for review and verification by the Auditor General;**
2. **The matter remains unresolved.**

492. Inaccuracy of the Financial Statements

Although the statement of financial assets and liabilities as at 30 September 2015 reflects nil balance against cash and cash equivalents, the bank balance in the Project account was Kshs.10,425,541.45 and Kshs.4,473,080.00 on 30 September and 10 December, 2015 respectively. No explanation or reconciliation has been provided for inaccurate presentation of cash and cash equivalent in the statement contrary to Section 48(1) of the National Gender and Equality Commission Act, 2011.

Committee Observations and Findings

1. **The Accounting Officer had submitted documents relating to Financial Statements Submission under paragraph 491 for review and verification by the Auditor General;**
2. **The matter remains unresolved.**

493. Inaccuracy between the General Ledger and Statements of Receipts and Expenditure

Examination of general ledger and statement of receipts and expenditure as at 30 September 2015, reflects account balances difference of Kshs.5,608,851.00 and Kshs.1,125,200.00 against community strategy (Advocacy) and Strategy / Lobby meetings respectively. No explanation has been given for differences between the two (2) sets of records.

Committee Observations and Findings

1. **The Accounting Officer had submitted documents relating to Financial Statements Submission under paragraph 491 for review and verification by the Auditor General;**
2. **The matter remains unresolved.**

494. Bank Balances

The Fund Project Management did not prepare monthly bank reconciliation statements for the project period and hence it was not possible to ascertain whether all bank transactions and bank balances during the period under audit were fairly stated.

Submission by the Accounting Officer

The Committee was informed that Paragraphs 491-494 concerned donor funded projects whose accounting was based on contractual obligations entered into between the donors and the government. The Committee gave the auditors two weeks to examine the now availed responses and report back to the Committee.

Committee Observations and Findings

1. **The Accounting Officer had submitted documents relating to Financial Statements Submission under paragraph 491 for review and verification by the Auditor General;**
2. **The matter remains unresolved.**

42.0. TRUTH, JUSTICE AND RECONCILIATION COMMISSION

Mr. Njee Muturi, CBS, the Solicitor General appeared before the committee accompanied by Ms. Bernice Gachegu; Registrar General, Mr. F.G.K. Masha; Ag. Director, Governance, Justice, Law & Order Sector, Ms. Eunice Sawe; Public Trustee, Ms. Leah Kimemia; Principal Accountant, Mr. Jacob Munge; Chief Finance Officer, Mr. Diaz Muasya; Chief Accountant, Mr. T.N. Miiri; Senior Accountant, Mr. Richard Miginjo; Senior Finance Officer, Mr. J.M. Kieni; Supply Chain Manager, Mr. Evans Ombiro; Accounts Assistant on 6th April, 2017 to adduce evidence on the audited Financial Statements Truth, Justice and Reconciliation Commission for the Financial Year 2014/2015. The Minutes of the Committee's Sittings on evidence taken are attached to this report.

Basis for Disclaimer of Opinion

218. Accuracy and Completeness of the Financial Statements

The statement of financial position of the Truth, Justice and Reconciliation Commission (TJRC) lacked opening balances. Further, the statement of management responsibilities was not signed by the officials as required. The whole financial statements were not dated and the necessary supporting documents and schedules including cash books and government ledgers, were not provided for audit review.

In addition, although notes to the financial statements were provided, they were poorly numbered and arranged such that it was not easy to follow the financial statements. The financial statements also lacked numbered pages and headings. The cash and cash equivalents' balance brought forward of Kshs.42, 327,256.00 differs with the 2012/2013 closing balance of Kshs.41, 388,316.00. There is a variance of Kshs.938, 940. In the statement of cash flows, cash and cash equivalents balance at the end of the year is posted as Kshs.28,601,894.00 , which differs from the statement of financial position's cash and cash equivalents balance of Kshs.172,236.00, resulting in a variance of Kshs.28,429,658.

In the circumstance, the accuracy and completeness of the financial statements could not be ascertained.

Submission by the Accounting Officer

The Auditor General confirmed that this matter had been resolved as the Accounting Officer had done requisite reconciliations.

Committee observations and findings

1. **The Management tabled documents to support its submission that the matter relating to accuracy and completeness of the financial statements under paragraph 218 had been resolved by Management through reconciliation of figures to the satisfaction of the Auditor General.**
2. **The matter was marked as resolved.**
3. **The Committee noted that had the Accounting Officer acted in time as per the Constitutional timelines on audit, this matter would not have been an audit query**.

Committee Recommendations

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) of the Constitution and section 81 (4)(a) of the Public Finance Management Act 2012.**

219. Un-Surrendered Imprests

The statement of financial performance under use of goods and services reflects an expenditure of Kshs.26, 273,845.00 which includes an imprest of Kshs.2, 113,920.00 which was not surrendered or accounted for.

Consequently, the recoverability of the outstanding imprest is doubtful.

There is no income reflected in the statement of financial performance, yet, there is an expenditure amount of Kshs.41, 216,887.00.

Submission by the Accounting Officer

The amount of Kshs. 2,113,920.00 was a combination of the following;

Payee	Invoice No	Amount (Ksh.)
Noel Creative Media	N213000139	593,920.00
Noel Creative Media (part payment)	N221300140	620,000.00
George Kayesi	Imprest	900,000.00
	Total	**2,113,920.00**

The accounting officer responded by noting that the total amount paid to Noel Creative Media was duly supported by the two invoices while the imprest was standing imprest for office use which we were unable to get the supporting documents and the officer was not available.

Committee Observations and Findings

An officer, one Mr. George Kayesi, had been cleared out of employment without him clearing his imprest in full contrary to the provisions of regulation 93 of the Public Finance Management (National Government) Regulations.

Committee Recommendation

The Accounting Officer should trace Mr. George Kayesi and recover the amount owed in outstanding imprest, failure to which the officers who cleared should be surcharged pursuant to the provisions of Article 226(5) of the Constitution and section 202(1)(b) of the Public Finance Management Act, 2012.

220. Prior Year Adjustment

A prior year adjustment in the statement of financial position of Kshs.10, 679,215.00 has not been explained. As a result, the accuracy and validity of the prior year adjustment could not be confirmed.

Submission by the Accounting Officer

The auditors confirmed that this matter had been resolved as the Accounting Officer had done reconciliations.

Committee Observations and Findings

The Committee noted that had the Accounting Officer acted in time as per the Constitutional timelines on audit, this matter would not have been an audit query.

Committee Recommendations

1. **The Committee recommends that the Accounting Officer should institute measures to ensure that the Agency always acts promptly on the Auditor General's management letters to forestall audit queries.**
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) of the Constitution and section 81 (4)(a) of the Public Finance Management Act 2012.**

43.0. INDEPENDENT POLICING OVERSIGHT AUTHORITY (IPOA)

Unqualified Opinion

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

Signed: …………………………………………………………

Date: 13th November, 2018

HON. JAMES OPIYO WANDAYI, MP

CHAIRPERSON

PUBLIC ACCOUNTS COMMITTEE