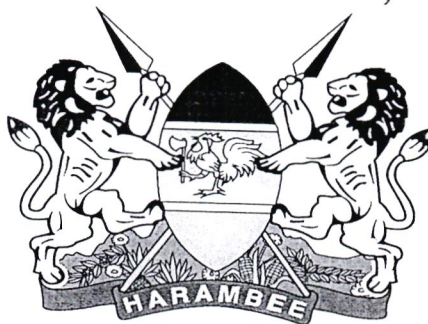


Approved for tabling. *Bat*
SNA
13/3/18

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

12TH PARLIAMENT – SECOND SESSION - 2018

PUBLIC ACCOUNTS COMMITTEE

REPORT ON THE

ACCOUNTS OF NATIONAL COHESION AND INTEGRATION
COMMISSION (NCIC), COMMISSION ON REVENUE ALLOCATION
(CRA), ETHICS AND ANTI – CORRUPTION COMMISSION (EACC),
NATIONAL LANDS COMMISSION (NLC), THE NATIONAL
ASSEMBLY (NA) AND THE PARLIAMENTARY SERVICE
COMMISSION (PSC) FOR THE YEAR 2015/2016

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PARLIAMENT BUILDINGS
NAIROBI

MARCH 2018

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CHAIRMAN'S BRIEF

Allow me, **Honourable Speaker**, to commend each single Honourable Member of this key Committee for their commitment and exemplary work which made the interrogation of the accounts and production of this report a major success. I applaud all my distinguished colleagues.

On behalf of the Public Accounts Committee (PAC), and pursuant to provisions of Standing Order 181(3), it is my pleasant privilege and honour to present to the House the report of the Committee on the Appropriations Account, Other Public Accounts and the Accounts of the National Cohesion and Integration Commission (NCIC), National Lands Commission (NLC), Parliamentary Service Commission (PSC), Commission on Revenue Allocation (CRA), Ethics and Anti – Corruption Commission (EACC) and the National Assembly (NA) for deliberation and adoption.

Honourable Speaker, PAC is focused on fulfilling its mandate, in the full knowledge of the very high expectations of the Kenyan tax payers. I am pleased to report that PAC, as currently constituted, is equal to the task and shall not disappoint.

For starters, PAC is committed to clearing, within the Second Session of the 12th Parliament, the huge backlog of audit reports, some dating back to 2014/2015 financial year, that await its scrutiny. To this end, the Committee has developed a comprehensive work plan that it intends to implement, with the permission of the Speaker. This is also of particular significance in ensuring equitable share of revenue between national and county governments calculated on the basis of the most current audited accounts as required by Article 202(3) of the Constitution.

Further, as a matter of practice, the Committee plans to table in the House, promptly, reports of the examination of the audited accounts of the various ministries, commissions and departments upon their completion. This is the first such report.

The Committee held a total of eleven (11) sittings in the period under review, during which it interrogated Accounting Officers on audit queries by the Auditor General. All minutes of the Committee's sittings on evidence taken are annexed to this report. In this exercise, the Committee was guided by the stated principles as well as the rules, procedures and customs of

the National Assembly derived from the Constitution of the Republic of Kenya, Acts of Parliament, Parliamentary Standing Orders, conventions, usages, practices and rulings and directives of the Chairperson.

The Committee resolved that going forward, the Commissions appearing before the Committee should be represented by the Chairperson of the Commission or, in their absence, a Commissioner, together with the Accounting Officer.

Accordingly, the Committee wishes to commend all those Accounting Officers who took their work seriously; and to strongly rebuke and reprimand every Accounting Officers who did not. As a measure of the significance the Committee attaches to this matter, the Committee has resolved that starting with the accounts of FY 2015/2016, reports to this august House will be accompanied by a list of Honour, naming and commending top performing Accounting Officers in an order of merit; and another list of Shame, naming and rebuking those who do not take their accounting duties seriously.

The Committee also notes with grave concern the serious financial and human resources constraints in the Office of the Auditor General, which has serious implications for the entire audit cycle as set out in Article 229 of the Constitution. Unless this challenge is urgently addressed, more so in view of the increased audit obligations occasioned by the demands of devolution, public funds will remain at great risk of misuse, misapplication and loss, without detection and remedy.

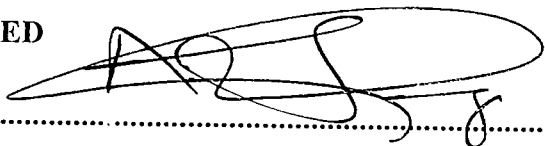
These challenges notwithstanding, though, PAC is nonetheless proud to have discharged its mandate with honour and valour, as expected of it by the Constitution, Standing Orders and customs of this Honourable House.

In conclusion, Honourable Speaker, the Committee registers its unreserved thanks to the Office of the Speaker and the Clerk of the National Assembly, the Auditor General and the entire Kenya National Audit Office (KENAO), Treasury and those Accounting Officers who dutifully honoured their obligations and made quality submissions before the Committee. Special appreciation also goes to the Clerks to the Committee 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 noble task made the work of the Committee and production of this report a success. We thank each one of them.

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

SIGNED



.....

HON. JAMES OPIYO WANDAYI, MP

CHAIRPERSON, PUBLIC ACCOUNTS COMMITTEE

DATE..... 12-3-2018

1.0 PREFACE

Honourable Speaker,

1.1 Establishment of the Public Accounts Committee

The Public Accounts Committee was established on Thursday, December 14, 2017 pursuant to Article 124 of the Constitution and the National Assembly Standing Orders 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 of 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 think fit”.

The Committee oversees the expenditure of public funds by ministries/departments, 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 Kenya National Audit Office (KENAO).

Honourable Speaker,

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. This is also intended to 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/departments.

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 (MDAs).

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

The Committee was constituted during the First Session of the 12th Parliament in December 2017, and comprises of the following Honourable Members: -

1. The Hon. James Opiyo Wandayi, MP - **Chairperson**
2. The Hon. Jessica Nduku Kiko Mbalu, MP - **Vice- Chairperson**
3. The Hon. Junet Mohammed Nuh, MP
4. The Hon. Maj. (Rtd) (Dr.) Eseli Simiyu, MP
5. The Hon. Sakwa John Bunyasi, MP
6. The Hon. Christopher Doye Nakuleu, MP
7. The Hon. Patrick Makau King'ola, MP
8. The Hon. (Dr.) Otiende Amollo, MP
9. The Hon. Gideon Koske, MP
10. The Hon. Francis Kuria Kimani, MP
11. The Hon. Samson Ndindi Nyoro, MP
12. The Hon. Peter Francis Masara, MP
13. The Hon. Michael Thoyah Kingi, MP
14. The Hon. Florence Mwikali Mutua, MP

15. The Hon. James Gichuhi Mwangi, MP
16. The Hon. Daniel Kipkogei Rono, MP
17. The Hon. Mathias Robi Nyamabe, MP
18. The Hon. Qalicha Gufu Wario, MP
19. The Hon. Michael Mwangi Muchira, MP

1.5 Summary of the Key Issues

In summary, with regard to the five accounts under review in this report (**the National Cohesion and Integration Commission - NCIC, Commission on Revenue Allocation -CRA, Ethics and Anti – Corruption Commission - EACC National Lands Commission - NLC, the National Assembly -NA and the Parliamentary Service Commission – PSC**), the issues that were raised by the Auditor General can be categorized as follows: -

- a) Outstanding Imprest;
- b) Accounts Payables (Pending Bills);
- c) Unreconciled Balances;
- d) Non-performing Contracts;
- e) Variation of Costs; and
- f) Ambiguity in financial control guidelines

1.6 Adoption of the Report

We the undersigned Members of the Public Accounts Committee (PAC) hereby adopt the Report of the Committee on the Report of the Auditor General on the accounts of the National Cohesion and Integration Commission (NCIC), Commission on Revenue Allocation (CRA), Ethics and Anti – Corruption Commission (EACC) National Lands Commission (NLC), the National Assembly (NA) and the Parliamentary Service Commission (PSC) for the financial year 2015/2016 on this Wednesday, 7th day of March 2018.

- | | |
|---|--|
| 1. The Hon. James Opiyo Wandayi, MP |  |
| 2. The Hon. Jessica Nduku Kiko Mbalu, MP |  |
| 3. The Hon. Junet Mohammed Nuh, MP |  |
| 4. The Hon. Maj. (Rtd) (Dr.) Eseli Simiyu, MP |  |

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17. The Hon. Mathias Robi Nyamabe, MP
18. The Hon. Qalicha Gufu Wario, MP
19. The Hon. Michael Mwangi Muchira, MP

SIR

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2.0 EVIDENCE

2.1 NATIONAL COHESION AND INTEGRATION COMMISSION FINANCIAL STATEMENTS

1. Un-registered Lease Agreement

During the financial year 2015/2016, the Commission paid Rent Kshs. 21,553,095.14 and Kshs. 1,607,200 to Gimco limited and Dr. Alfred Adhiambo Otieno respectively. Although the Commission has forwarded documents to the Ministry of Lands for registration, the Ministry had not yet completed the process by 30 June 2016. Further it was observed that the Commission have an IT strategic committee, steering committee, strategic plan and a comprehensive procurement plan.

Management Response

The Accounting Officer submitted that the Commission on receipt of the certificate of the Auditor General on financial statements for year 2015/16, the following action had since been taken to address the queries raised in the certificate;

1. Registration of leases on the premises owned by KMA and Dr. Odhiambo

The Committee heard that the Commission engaged both the landlord and enlisted the services of the Department of Housing and Public Works and the registration of the said leases are in their final stages i.e. waiting for the Department of Lands to waive stamp duty charges and enable entry of the lease in the title of lease. He submitted that the process had been painfully slow and this was attributable to the process between the Department of Public Works, and the Department of Lands.

2. ICT issues (Policy, Committee, Strategy, and Recovery Plan)

This had since been addressed by the Commission in the ICT policy which was developed with the support of the ICT Authority who was expected to issue a completion letter the following week. The Policy was passed by the Commission in a sitting held on 17th October 2017 and has been processed for printing.

3. Procurement Plan

This issue had since been addressed and the procurement plan for all the subsequent financial years i.e. 2016/17 and 2017/18 were in place.

The Committee observed that the Commission had taken corrective measures and confirmed from the Auditor General that the matter had been resolved.

2.2 COMMISSION ON REVENUE ALLOCATION

FINANCIAL STATEMENTS FOR VOTE 2061

573. Unreconciled Balances

Various account balances reflected in the financial statements differ with the Integrated Financial Management System (IFMIS) trial balance figures as at 30 June 2016 as summarized below:

Account Details	Financial Statements Balances (Kshs)	IFMIS Trial Balance (Kshs)	Difference
Total Expenses	325,071,845.00	301,066,164.95	24,005,680.05
Total Assets	188,459,241.00	12,933,238.45	175,526,002.55
Total Liabilities	6,302,041.00	7,321,441.45	(1,019,400.45)

No reconciliation has been provided for differences.

Management Response

The Accounting Officer submitted that the Commission had for the last 6 years presented its financials on accrual basis. It was on the same strength that more clarification was sought from the Auditor General, Accounting Services regarding our appropriate method of reporting. The Commission received approval on the use of IPSAS accrual basis for reporting. This was to necessitate exemption from comparison of our accounts to those in the IFMIS system.

The Commission submitted that the Audit process maintained a comparative analysis of the financials in the IFMIS systems which were on **Cash basis** of accounting and our financial statements which were on **Accrual basis**. Regarding the difference in the IFMIS trial balances and by the Auditor's recommendation, the Commission further provided an item for item explanation for all the expenditure issues raised.

He further submitted that the Commission was not agreeable to the Auditor's opinion sought on the same with both the Auditor General and Director General Accounting Services. A meeting

was then held between the Commission and the Director General Accounting Services on 30th November 2017 where it was resolved that:

- i. A Clearance certificate for audit of CRA's financial years for FY 2015/2016 to be sought through the Director General, AS & QA office. This was because the audit opinion having been issued could not be reversed.
- ii. The Commission to be exempted from future cash based review and consider accrual basis accounting standards.

The Committee observed that the Commission on Revenue Allocation was allowed by both, the Auditor General and Director General-Accounting Services and Quality Assurance (National Treasury) to use the 'accrual basis' accounting standards as the mode of reporting its financial statements;

The Committee confirmed from the Auditor General that the matter had been resolved.

2.3 ETHICS AND ANTI-CORRUPTION COMMISSION

FINANCIAL STATEMENTS FOR EACC VOTE 1271

The Committee observed that the Auditor General had not raised any material issue during the audit of the financial statements of the Commission for the year ended 30 June 2016. It is on this basis that the EACC had written to be exempted from appearing before the Committee.

The Committee however, resolved that going forward all agencies will be required to appear before it in respect of their audited accounts regardless of the Auditor General's opinion.

2.4 NATIONAL LANDS COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2012

557. Payments on Behalf of Other Government Entities

Note 7 to the financial statements reflects payments on behalf other Government entities totalling Kshs.2,863,539,469.45. The amount includes Kshs. 2,079,764,002.65 being compensation payments whose details of acreage and plot numbers have not been availed for audit verification. In addition, the Commission has not availed for audit verification valuation reports for compensation paid out during the financial year. In the circumstance, it has been possible to confirm the accuracy and validity of payments made by the Commission on behalf of other Government entities accounting to Kshs.2,868,539,469.45 included in the statement of receipts and payments for the year ended 30 June 2016.

The Committee observed that-

- i. The National Lands Commission did not avail to the Auditor General for verification valuation reports upon which land compensation had been based.**

Therefore, the audit queries remain unresolved.

2.5 THE NATIONAL ASSEMBLY

FINANCIAL STATEMENTS FOR VOTE 2042

567. Mileage Allowance

The statement of receipts and payments for the year ended 30th June 2016 reflects an expenditure of Kshs. 4,874,074,954 on use of goods and services. Included in this figure is an amount of Kshs. 620,132,643 relating to mileage allowance.

However, examination of records has revealed that some members of parliament were paid mileage allowance in 2014/2015 and 2015/2016 financial years of Kshs. 298,811,898 and Kshs. 270,551,496, respectively totalling 569,363,394 without clear guidelines. According to the explanation provided by the accounting officer on the matter, the Parliamentary Service Commission had resolved at its 227th meeting held on 6 April, 2016 to continue engaging with the Salaries and Remuneration Commission to clarify that the mileage allowance is payable to members who travel beyond seven hundred and fifty kilometers per month.

Management response

The Accounting Officer submitted that:

- i. In responding to the fact that Members have two working stations; at Nairobi and at the Constituencies; Parliament has, by practice, been paying Mileage to Members as a reimbursable facility for many years.
- ii. On 11th of June 2013, Salaries and Remuneration Commission (SRC), after consultations with the Parliamentary Service Commission (PSC) released a Circular Ref: SRC/TS/HRCOH/3/25 providing guidelines on payment of mileage claims to State Officers and that claim should be calculated based on the applicable AA rates and distance from the Member's home.
- iii. Before the circular was issued, Parliamentary Service Commission (PSC) had entered into a Memorandum of Understanding (hereinafter referred to as "MoU") with the Salaries and Remuneration Commission on 10th June, 2013. The MoU provided that a

Member would be paid mileage as follows:

- a) For the first 750 Kms per month, a fixed rate of 356,525/- per month to all Members of Parliament.
 - b) Any mileage claim beyond 750 Kms per month, be paid at the applicable AA rates of KES 109.8*750Kms*52Weeks/12 Weeks. The mileage was to be calculated based on the distance to the Member's home. However, the Parliamentary Service Commission and Salaries and Remuneration Commission were to discuss the possibility of extending the calculation to be based on the furthest point of the Member's area of representation.
- iv. Parliament implemented the terms of the SRC Circular of 11th June 2013 which was in tandem with the McU and Members who travelled beyond 750Km per month were compensated by paying mileage at AA rates.
 - v. On 15th November 2013, the SRC issued a second Circular which addressed the issue of mileage and provided that, *'the existing rates be retained as the decision provided in the letter ref: SRC/TS/HRCOH/3/2 dated 11th June, 2013, is that Members whose areas of representation is beyond 375Km (750Km return journey) claim reimbursement for the actual extra kilometres covered.'* This Circular brought about an ambiguity by providing that the *'existing rates be retained as per the decision provided in the first Circular of 11th June, 2013'* while at the same time providing *'that Members whose areas of representation is beyond 375Km (750Km return journey) claim reimbursement for the actual extra kilometres covered.'*
 - vi. Parliament's interpretation of the first circular and more particularly guided by the MoU entered, was correct and thus the justification for processing of mileage totalling KES 569,363,394 to both Members of the National Assembly and the Senate. Parliament also argued that, in interpreting the two circulars emanating from the Salaries and Remuneration Commission, it was informed by the rule of *'Contra Proferentem'* used in Courts when interpreting contracts where ambiguity arises.
 - vii. That the Parliamentary Service Commission is consulting the Salaries and Remuneration

Commission and is also exploring other ways of facilitating Members representing Nairobi County and its surroundings.

viii. The matter concerning the mandate of the two Commissions on facilitation of Members is however pending final interpretation and determination by the High Court in R -v- The Salaries and Remuneration Commission ex-parte Parliamentary Service Commission & others High Court Petition 686 of 2017.

The Committee observed that:

Mileage allowance is an expenditure incurred by Members of Parliament when travelling to the constituencies to undertake their mandate. Noting that the Salaries and Remuneration Commission (SRC) issued two apparently contradictory circulars of 11th June 2013 and 15th November 2013; and also noting the Circular of 11th June 2013 was in tandem with the Memorandum of Understanding signed between the SRC and PSC ON 10th June 2013; and further noting that the circular of 15th November 2013 while retaining the existing rates did not indicate that it superseded or revoked the circular of 11th June 2013, a fact underscored by the Auditor General, the Public Accounts Committee resolved to recommend adoption and implementation of the circular of 11th June 2013 as read together with the Memorandum of Understanding between SRC and PSC.

Noting that the SRC Circular dated 11th June 2013 ref: SRC/TS/HRCOH/3/25 is clear and precise on the processing of mileage allowance, the Committee resolves that the Parliamentary Service Commission be guided by the said circular, thereby resolving the audit query.

568. Outstanding Imprests:

The statement of assets and liabilities as at 30th June 2016 reflects outstanding imprest totaling Kshs. 49,402,796 which ought to have surrendered or accounted for on or before 30 June 2016.

The Accounting Officer submitted that all imprests that were outstanding as at 30th June 2016 have been fully recovered and outstanding balance thereof is nil.

The Committee confirmed from the Auditor General that the matter was resolved.

569. Accounts Payable:

As disclosed under notes 13A and 13B to the financial statements, the National Assembly had pending bills totaling to Kshs. 197,814,570 as at 30th June 2016. Had the bills been paid and related expenditure charged to the accounts for 2015/2016 financial year, the statement of receipts and payments for the year then ended would have a reduced surplus of Kshs. 9,274,271 instead of Kshs. 188,540,299 now shown.

The Accounting Officer submitted that all pending bills were cleared during the 2016/2017.

The Committee confirmed from the Auditor General that the matter was resolved.

2.6 PARLIAMENTARY SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2041

565. Stalled Refurbishment and Petitioning of Offices at Harambee Co-operative Plaza:

The Commission awarded contract No. D29/NB/1101 Job No.9878A for refurbishment and petitioning of offices at Harambee Co-operative Plaza on May 16 2013 to a local firm at a tender sum of Kshs.420, 000,000. Examination of available records revealed that the contractor had been paid Kshs.163, 715,475 or 39% of the of the contract price as at 31 March 2016. However, the works, which were due for completion on 27th January 2014, were not completed as expected and have since stalled. No plausible explanation had been given for failure to complete the project on time. Further, the Commission has not made any pronouncement on the resumption of the construction work.

Management Response

The Accounting Officer submitted that:

- i. It was true that the contract was awarded and had been paid up to a sum of 39% of the contract price as at 31st March 2016.
- ii. Notices of termination were issued by the landlord in 2012 and the spaces were to be occupied in January 2013. The landlord later informed the Commission that while a number of tenants vacated the premises, some tenants had proceeded to the Landlord and Tenant Tribunal and obtained restraining orders to terminate the tenancies.
- iii. Handing over was done for only the spaces where tenants had accepted termination and vacated the premises.
- iv. Due to the above, the project Manager had been requested to certify that the contract has been frustrated and the contractor can only be paid for work done.

The Committee observed that the PSC had entered into a lease agreement with the Harambee Sacco Plaza but could not access the office spaces for refurbishment since they

were still occupied by other tenants.

The Committee, therefore, recommends that the Project Manager should certify the contract of the refurbishment and partitioning of offices at Harambee Co-operative Plaza as frustrated and proceed to calculate the cost of work actually done so far in order to close the matter.

566. Interest on Delayed Payments KES 62, 251, 760.00

The Commission, in addition, contracted an international company to construct a multi-storey office block under contract WP No. D29 NB 901 Job No. 7753C at a tender sum of Kshs. 5,893,649,849.67 on 23 September 2013 and on 5 September 2012 awarded a local company contract WP No. D29 NB/NBI/1101 Job No.7577E to renovate the senate chamber and parliamentary offices at a tender sum of Kshs. 2,209,173,479.35

The expenditure records show that during the year under review, the Commission paid the international and local companies Kshs. 27,880,235.00 and Kshs. 34,371,525.00, respectively being interest claims for delayed payment of works certificates/invoices. Had the contractor bills been settled on time, the total expenditure of Kshs. 62,251,760 incurred on interest on delayed payments could have been avoided.

Management Response

The Accounting Officer submitted that delay of payment claims was because of the following:

- i. The process of certifying works' certificates/invoices by the Project Manager, Ministry of Housing, Lands and Urban Development for release and transmission to the Parliamentary Service Commission takes a long time and delays the processing of payment by PSC.
- ii. The Integrated Financial Management System (IFMIS) frequently experiences a breakdown of the system or network, which contributes towards a delay in processing of payments by the Parliamentary Service Commission.
- iii. The delay on release of Exchequer on request contributes towards delay in payment of

certificates by PSC.

Further, the Committee was informed that in its 225th meeting held on 25th February 2016, the Commission resolved as follows:

- i. For projects costing less than Kshs 20 Million that have been outsourced, the Commission uses the office of the Chief Engineer to undertake project management internally.
- ii. For projects above Kshs 20 Million it was agreed that the Commission engages a Project Manager to manage the projects on behalf of the Commission, and consultants to design and carry out construction supervision. The project manager and the consultant to be sourced separately or proper execution of projects with the office of the Chief Engineer providing overall supervision and co-ordination
- iii. The two teams of professionals engaged for projects above Kshs. 20 Million should be procured at the same time and from different firms at the inception of a project.

The Committee observed that-

- i. The Ministry of Lands, Housing and Urban Development delayed in certifying works which in turn meant that PSC paid penalties in the form of accrued interest;
- ii. The Integrated Financial Management System (IFMIS) frequently experiences a breakdown of the system or network which contributes towards a delay in processing of payments by the Parliamentary Service Commission ;

The Committee recommends that PSC should not focus on building internal capacity for public works supervision as it would make it deviate from its core mandate and unnecessarily increase the recurrent expenditure of the Commission.

3.0 MINUTES

MINUTES OF THE TENTH (10TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON WEDNESDAY 7TH MARCH 2018 AT 9.00 A.M. IN BONI ROOM, PRIDE INN.

PRESENT

1. The Hon. James Opiyo Wandayi, M.P. - **Chairman**
2. The Hon. Jessica Nduku Kiko Mbalu, M.P. - **Vice- Chairman**
3. The Hon. Junet Mohammed, M.P.
4. The Hon. Maj. (Rtd) (Dr.) Eseli Simiyu, M.P.
5. The Hon. Christopher Doye Nakuleu, M.P.
6. The Hon. Patrick Makau King'ola, M.P.
7. The Hon. Gideon Koske Kimutai, M.P.
8. The Hon. John Bunyasi Sakwa, M.P.
9. The Hon. Peter Francis Masara, M.P.
10. The Hon. Michael Mwangi Muchira, M.P.
11. The Hon. (Dr.) Otiende Amollo, M.P.
12. The Hon. Qalicha Gufu Wario, M.P.
13. The Hon. Samson Ndindi Nyoro, M.P.
14. The Hon. Michael Thoyah Kingi, M.P.
15. The Hon. James Gichuhi Mwangi, M.P.
16. The Hon. Daniel Kipkogei Rono, M.P.
17. The Hon. Francis Kuria Kimani, M.P.

APOLOGIES

1. The Hon. Florence Mwikali Mutua, M.P.
2. The Hon. Mathias Robi Nyamabe, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Oscar Namulanda - Principal Clerk Assistant II
2. Mr. Nerbert Ikai - Clerk Assistant III
3. Mr. Sydney Lugaga - Legal Counsel
4. Ms. Catherine Gati - Fiscal Analyst
5. Mr. Abdi Salat - Senior Sergeant At Arms

MIN No. 052/2018: PRELIMINARIES

The Chairman called the meeting to order at 9.30 a.m. A prayer was said followed by introductions of all the members present

MIN No. 053/2018: CONFIRMATION OF MINUTES

The confirmation of the minutes of the previous sitting was deferred to the next meeting. Therefore there were no matters arising.

MIN No. 054/2018: ADOPTION OF THE REPORT OF THE AUDITOR GENERAL AUDITED ACCOUNTS FOR THE NATIONAL LAND COMMISSION, ETHICS AND ANTI-CORRUPTION COMMISSION, NATIONAL COHESION AND INTEGRITY AND COMMISSION ON REVENUE ALLOCATION FOR THE FINANCIAL YEAR 2015/16

The committee unanimously adopted the report of the audited accounts for the national land commission, ethics and anti-corruption commission, national cohesion and integrity and commission on revenue allocation for the financial year 2015/16.

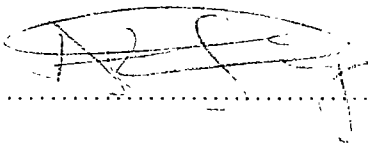
The members resolved that onwards there should be sub-committees handling specific Ministries, Departments and agencies to ease the work of the committee

MIN No. 055/2018: ANY OTHER BUSINESS

There was no other business.

MIN No. 056/2018: ADJOURNMENT

There being no other business, the sitting adjourned at 11.30 a.m. Next sitting will be held on Tuesday 13th March 2018 at 9a m Committee Room no. 9, Main parliament Buildings.

Signed.......... Date.....13/3/18.....

(Chairperson)

MINUTES 9TH OF SITTING OF THE PUBLIC ACCOUNTS COMMITTEE
HELD ON FRIDAY 2ND MARCH, 2018 IN THE COMMITTEE ROOM 9,
MAIN PARLIAMENT BUILDING AT 10.00 AM.

PRESENT

1. Hon. James Opiyo Wandayi, MP - Chairperson
2. Hon. Junet Mohammed, MP
3. Hon. John Bunyasi Sakwa, MP
4. Hon. Gideon Koske, MP
5. Hon. Samson Ndindi Nyoro, MP
6. Hon. Michael Mwangi Muchira, MP
7. Hon. Michael Thoyah Kingi, MP
8. Hon. Paul Otiendo Amollo, MP
9. Hon. James Gichuhi Mwangi, MP
10. Hon. Qalicha Gufu Wario, MP
11. Hon. Daniel Kipkogei Rono, MP

APOLOGIES

1. Hon. Jessica Nduku Kiko Mbalu, MP - Vice- Chairperson
2. Hon. Maj. (Rtd) (Dr.) Eseli Simiyu, MP
3. Hon. Christopher Doye Nakuleu, MP
4. Hon. Patrick Makau King'ola, MP
5. Hon. Peter Francis Masara, MP
6. Hon. Florence Mutua, MP
7. Hon. Francis Kuria Kimani, MP
8. Hon. Mathias Robi Nyamabe, MP

IN ATTENDANCE

Office of the Auditor General

1. Mr. Jastine M. Rucha - Liaison Officer
2. Mr. Richard O. Nyagwachi - Deputy Director
3. Mr. Charlies M. Kinuthia - Manager Audit
4. Mr. Richard Njio - Deputy Director
5. Mr. Benjamin Matheka - Manager Audit
6. Mr. Humprey Okoth - Audit Supervisor

National Assembly

1. Mr. Oscar Namulanda Wesonga - Principal Clerk Assistant II
2. Mr. Nebert Ikai - Clerk Assistant III
3. Mr. Catherine Burure - Fiscal Analyst III

- | | | |
|----------------------------|---|-------------------------|
| 4. Ms. Caroline Njue | - | Research Officer III |
| 5. Mr. Sidney Okumu Lugaga | - | Legal Counsel II |
| 6. Mr. Yaqub Ahmed | - | Media Relations Officer |
| 7. Mr. Stephen Nyakuti | - | Audio Officer |

MIN No.045/2018 : PRELIMINARIES

The Chairperson called the meeting to order at Fifteen Minutes past Ten O'clock and thereafter he prayed.

MIN No. 046/2018: CONFIRMATION OF PREVIOUS MINUTES

The minutes of the 7th sitting held on Thursday, March 01, 2018 were deferred to the next meeting. Consequently, no matters arose.

MIN.No.047/2018; EVIDENCE: THE COMMISSION ON REVENUE ALLOCATION

The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the 2015/2016 Financial Year

Mr. George Ooko, the Secretary to the Commission and Accounting Officer appeared before the Committee accompanied by the following officers and one Commissioner;

- | | | |
|----------------------|---|------------------|
| 1. Mr. Peter Gachuba | - | Commissioner |
| 2. Ms. Maureen Junge | - | Finance Manager |
| 3. Ms. Joyce Miriti | - | Internal Auditor |

and gave evidence on:

573. Unreconciled Balances

That the Integrated Financial Management System (IFMIS) was reported on cash basis while the Commission had presented its financials on Accrual basis. Further the Commission has since provided an item by item explanation for all the expenditure items raised regarding the difference in the IFMIS trial balances.

Member's observations

The Committee observed that the Commission on Revenue Allocation was allowed by both, the Auditor General and Director General-Accounting Services and Quality Assurance (National Treasury) to use the 'accrual basis' accounting standards as the mode of reporting its financial statements;

The Committee confirmed from the Auditor General that the matter had been resolved.

MIN Nò. 048/2018: EVIDENCE: THE NATIONAL COHESION AND INTEGRATION COMMISSION

The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the 2015/2016 Financial Year

Mr. Hassan S. Mohamed, the Secretary to the Commission and Accounting Officer appeared before the Committee accompanied by the following officers and one Commissioner;

- | | | |
|----------------------------|---|------------------------|
| 1. CPA Philip S. Wuantai | - | Head of Internal Audit |
| 2. Mr. John David Odhiambo | - | Head of Procurement |

and gave evidence on:

Un-registered Lease Agreement

a. Registration of leases on the premises owned by KMA and Doctor Adhiambo

That the Commission engaged both the landlord and enlisted both the services of the Department of Housing and Public Works and the registration of the said leases are in their final stages. This includes waiving of stamp duty charges by Department of Public Works to enable entry of lease in the Title of lease.

b. ICT issues (Policy, Committee Strategy and Recovery Plan)

That by the support of the ICT Authority, the Commission has developed an ICT policy that was adopted on 17th October, 2017. The ICT Authority is expected to issue a completion letter on the same.

c. Procurement plan

That the issue has been addressed and the procurement plan for the all subsequent financial years (2016/17 and 2017/18) are in plan.

Member's observations

The Committee observed that the Commission had taken corrective measures and confirmed from the Auditor General that the matter had been resolved.

MIN No. 049/2018: EVIDENCE: THE NATIONAL LAND COMMISSION

The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the 2015/2016 Financial Year

Mr. Chavangi Tom, the Secretary to the Commission and Accounting Officer appeared before the Committee accompanied by the following officers and one Commissioner;

- | | | |
|-------------------------|---|-----------------------|
| 1. Dr. Salome L. Munubi | - | Finance Officer - NLC |
| 2. Mr. Francis K. Mugo | - | NLC |
| 3. Mr. Bernard Chemtito | - | NLC |
| 4. Mr. Daniel Mwakio | - | NLC |
| 5. Mr. Joash Oindo- | - | NLC |

and gave evidence on:

557. Payments on Behalf Other Government Entities

The Committee observed that-

- i. The National Lands Commission did not avail to the Auditor General for verification valuation reports upon which land compensation had been based.*

Therefore, the audit queries remain unresolved.

The Committee further resolved that the CEO National Land Commission before it on 13th March, 2018 fully equipped with required written information.

MIN No. 050/2018: EVIDENCE: THE ETHICS AND ANTI CORRUPTION COMMISSION

The Chairperson read to Members the letter from EACC explaining that they had no query to respond in regard to the audited accounts 2015/16. However Members were of the opinion that the EAAC ought to have appeared before the Committee despite the Auditor General having given an unqualified Opinion on financial statements of the accounts of the EACC. Consequently the Committee required them to appear on 13th March 2013.

The Committee observed that the Auditor General had not raised any material issue during the audit of the financial statements of the Commission for the year ended 30 June 2016. It is on this basis that the EACC had written to be exempted from appearing before the Committee.

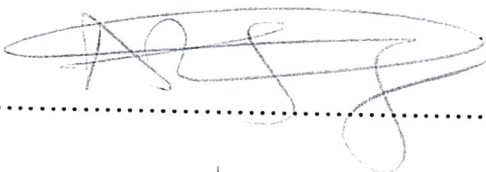
The Committee however, resolved that going forward all agencies will be required to appear

before it in respect of their audited accounts regardless of the Auditor General's opinion.

MIN No. 051/2018: ADJOURNMENT

The Chairperson adjourned the Sitting at Four O'clock. The day of the next Sitting will be Communicated.

Signed.....



Date.....

13-3-2018

Chairperson.....

HON. WADDAY

MINUTES OF THE 8TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON THURSDAY 1ST MARCH, 2018 IN THE COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDING AT 10 AM.

PRESENT

1. Hon. James Opiyo Wandayi, MP - **Chairperson**
2. Hon. Jessica Nduku Kiko Mbalu, MP - **Vice- Chairperson**
3. Hon. Junet Mohammed, MP
4. Hon. Sakwa John Bunyasi, MP
5. Hon. Christopher Doye Nakuleu, MP
6. Hon. Patrick Makau King'ola, MP
7. Hon. Gideon Koske, MP
8. Hon. Florence Mwikali Mutua, MP
9. Hon. Qalicha Gufu Wario, MP
10. Hon. Mathias Nyamabe Robi, MP
11. Hon. James Gichuhi Mwangi, MP
12. Hon. (Dr.) Otiende Amollo, MP
13. Hon. Michael Mwangi Muchira, MP
14. Hon. Daniel Kipkogei Rono, MP

APOLOGIES

1. Hon. Maj. (Rtd) (Dr.) Eseli Simiyu, MP
2. Hon. Samson Ndindi Nyoro, MP
3. Hon. Michael Thoyah Kingi, MP
4. Hon. Peter Francis Masara, MP
5. Hon. Francis Kuria Kimani, MP

IN ATTENDANCE

National Assembly

1. Mr. Oscar Namulanda Wesonga - Principal Clerk Assistant II
2. Mr. Nebert Ikai - Third Clerk Assistant
3. Mr. Catherine Burure - Fiscal Analyst III
4. Ms. Caroline Njue - Research Officer III
5. Mr. Yaqub Ahmed - Media Relations Officer
6. Mr. Salat Abdi - Serjeant-at-Arms
7. Mr. Bernard Omondi - Serjeant-at-Arms

MIN No.038/2018: PRELIMINARIES

The Chairperson called the meeting to order at Twenty minutes past Ten O'clock and thereafter he prayed.

MIN No. 039/2018: CONFIRMATION OF MINUTES

The minutes of the Seventh Sitting held on February 27, 2018 were confirmed as a true record of the proceedings of that meeting and signed by the chair after being proposed by Hon. Florence Mwikali Mutua, MP and seconded by Hon. Patrick Makau King'ola, MP.

MIN No. 040/2018: MATTERS ARISING

No matter arose

MIN No. 041/2018: ADOPTION OF THE APPEARANCE SCHEDULE

The Secretariat was asked to amend the appearance schedule to include all Ministries, Agencies and Departments – MDAs that were not heard in regards to audited Accounts of 2014/15. The schedule should be prepared in a manner that enables the above agencies to respond to both audited accounts of 2014/2015 and 2015/16.

MIN NO. 042/2018: CONSIDERATION OF THE SPECIAL AUDIT REPORT OF MAY, 2016 REPORT ON THE ACCOUNTS OF THE NATIONAL YOUTH SERVICES (NYS).

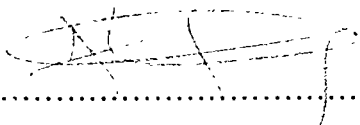
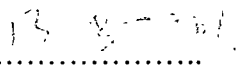
It was apparent to the Committee that the debate of the above report was concluded and adopted by the house on 24th May 2017.

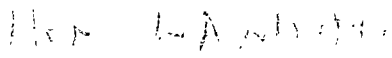
MIN No. 043/2018: PROSPECTIVE AREAS OF SPECIAL AUDIT OR FORENSIC AUDIT

The Secretariat was asked to research on prospective areas of special audit or forensic audit and apprise the Committee accordingly.

MIN No. 044/2018: ANY OTHER BUSINESS

There being no any other business the Chairperson adjourned the meeting at Ten Minutes Past Eleven O'clock. The next meeting will be held on March 2, 2018 in Committee Room 9 at 9:30am.

Signed.......... Date.....

Chairperson... .....

**MINUTES OF THE 7TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE
HELD ON TUESDAY, FEBRUARY 27, 2018 IN COMMITTEE ROOM 9, MAIN
PARLIAMENT BUILDING, AT 10.00AM.**

PRESENT

1. The Hon. James Opiyo Wandayi, MP - **Chairperson**
2. The Hon. Jessica Nduku Kiko Mbalu, MP - **Vice Chairperson**
3. The Hon. Junet Mohamed Nuh, MP
4. The Hon. Maj. (Rtd.) Dr. Eseli Simiyu, MP
5. The Hon. Patrick Makau King'ola, MP
6. The Hon. Christopher Doye Nakuleu, MP
7. The Hon. Mathias Nyamabe Robi, MP
8. The Hon. Daniel Kipkogei Rono, MP
9. The Hon. Samson Ndindi Nyoro, MP
10. The Hon. Francis Kuria Kimani, MP
11. The Hon. Florence Mwikali Mutua, MP
12. The Hon. Michael Mwangi Muchira, MP
13. The Hon. James Gichuhi Mwangi, MP
14. The Hon. Peter Francis Masara, MP
15. The Hon. Paul Otiende Amollo, MP
16. The Hon. Michael Thoyah Kingi, MP

APOLOGY

1. The Hon. Sakwa John Bunyasi, MP
2. The Hon. Gideon Koske Kimutai, MP
3. The Hon. Qalicha Gufu Wario, MP

IN-ATTENDANCE

National Assembly

1. Mr. Oscar Namulanda - Principal Clerk Assistant II
2. Mr. Sidney Bwire - Legal Officer II
3. Mr. Nebert Ikai Lomechu - Clerk Assistant III
4. Ms. Caroline Njue - Research Officer III
5. Ms. Catherine Ghati - Fiscal Analyst III
6. Mr. Abdi Salat - Senior Sergeant at Arms
7. Mr. Fenard Omondo Bwara - Sergeant at Arms
8. Mr. Nimrod Ochieng - Audio Recoder

MIN.NO. 033/2018:

PRELIMINARIES

The Chairperson called the meeting to order at Twenty minutes past Nine O'clock followed by a Prayer and introductions.

MIN.NO. 036/2018:

ADOPTION OF WORK OF WORK PLAN AND
APPEARANCE SCHEDULE

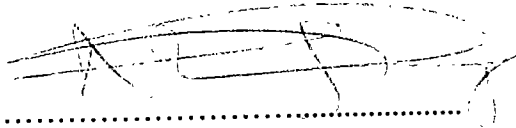
Adoption of work adoption of work plan and appearance schedule was differed to the next sitting.

MIN.NO. 037/2018:

ADJOURNMENT

The Chairperson adjourned the meeting at thirty minutes past Elven O'clock. The next meeting will be held on Friday, March 2, 2018 in Committee Room Nine, Main Parliament Buildings.

SIGN.....



DATE

1/03/2018

CHAIRPERSON.....

HON LANDANI

**MINUTES 6TH OF SITTING OF THE PUBLIC ACCOUNTS COMMITTEE
HELD ON SATURDAY 24TH FEBRUARY, 2018 IN THE IVORY LOUNGE,
SAFARI PARK HOTEL AT 2.30 PM.**

PRESENT

1. Hon. James Opiyo Wandayi, MP - **Chairperson**
2. Hon. Junet Mohammed, MP
3. Hon. Maj. (Rtd) (Dr.) Eseli Simiyu, MP
4. Hon. Christopher Doye Nakuleu, MP
5. Hon. Patrick Makau King'ola, MP
6. Hon. Gideon Koske, MP
7. Hon. Francis Kuria Kimani, MP
8. Hon. Samson Ndindi Nyoro, MP
9. Hon. Peter Francis Masara, MP
10. Hon. Michael Thoyah Kingi, MP
11. Hon. Florence Mutua, MP
12. Hon. James Gichuhi Mwangi, MP
13. Hon. Daniel Kipkogei Rono, MP

APOLOGIES

1. Hon. Jessica Nduku Kiko Mbalu, MP - **Vice- Chairperson**
2. Hon. John Bunyasi Sakwa, MP
3. Hon. Mathias Robi Nyamabe, MP
4. Hon. Qalicha Gufu Wario, MP
5. Hon. Michael Mwangi Muchira, MP
6. Hon. Paul Otiendo Amollo, MP

IN ATTENDANCE

National Assembly

1. Mr. Oscar Namulanda Wesonga - Principal Clerk Assistant
2. Mr. Nerbert Ekai - Clerk Assistant
3. Mr. Catherine Burure - Fiscal Analyst
4. Ms. Caroline Njue - Research Officer
5. Mr. Sidney Okumu Lugaga - Legal Counsel
6. Mr. Yaqub Ahmed - Media Relations Officer
7. Ms. Farida Ngasura - Audio Recording Officer
8. Ms. Alice Kitur - Secretary
9. Ms. Purity Nkare - Documentation Officer
10. Mr. Salat Abdi - Serjeant-at-Arms
11. Mr. Mohammed Roba - Security Officer

MIN No.029/2018: PRELIMINARIES

The Chairperson called the meeting to order and recited the official prayer at 2:20 pm.

MIN No. 030/2018: CONFIRMATION OF MINUTES

The minutes would be confirmed at the next Committee meeting. There were thus no matters arising.

MIN No. 031/2018: CONSIDERATION OF SUBMISSIONS BY THE NATIONAL ASSEMBLY ON AUDITED ACCOUNTS 2015/16

Having met the National Assembly, and received submissions from the Commission Secretary and Accounting Officer Mr. Michael R. Sialai, the Committee observed that:

I. On Mileage claims for the financial year 2015/2016

- i. Mileage Allowance was a reimbursable expenditure incurred by Members when travelling to their constituencies to undertake their mandate and SRC had issued two circulars on 11th June 2013 and 15th November 2013 which are meant to give guidelines on the processing of the payment of mileage.
- ii. The first circular was in tandem with the Memorandum of Understanding (hereinafter "MOU") signed between the Parliamentary Service Commission (PSC) and the Salaries and Remuneration Commission (SRC) on 10th of June 2013;
- iii. There was contradiction on the guidelines contained in the two circulars as the first circular dated 11th June 2013 stated that the mileage allowance and claim is to be calculated based on AA rates and the distance to the *Member's home* while the second circular dated 15th November 2013 stated that the existing rates be retained (as per the first circular of 11th June 2013) and in addition, that Members whose *areas of representation* is beyond 750Kms return journey may claim reimbursement for the actual extra kilometres covered, thus creating ambiguity in the interpretation of the two circulars;
- iv. The second circular dated 15th November 2013 while retaining the existing rates did not indicate that it was superseding the earlier circular of 11th June 2013, meaning that both of them are applicable;
- v. The first circular read together with the MOU and how, by practice, mileage has been processed, was clear on guidelines for processing of mileage allowance due to Members;
- vi. The PSC has been engaging the SRC to clarify on the contradiction brought about by the two circulars; and
- vii. Pursuant to Article 229 (8) of the Constitution of Kenya, the Committee is required to interrogate the report of the Auditor General and make recommendations by way of a report to Parliament and the House shall debate and consider the report and take appropriate action.

2. Outstanding Imprests- Kshs.49,402,796

The Committee observed that the issue had been resolved

3. Account's payables- Kshs. 197,814,570

The Committee observed that the issue had been resolved

MIN No. 032/2018: ADJOURNMENT

The Chairperson adjourned the Sitting at Four O'clock. The next Sitting will be held on Tuesday, February 27, 2018 in Committee Room 9 at 10:00am.

Signed.....  Date 27/02/2018.....

Chairperson..... HON. WANGAYI.....

MINUTES OF THE FIFTH (5TH) SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON SATURDAY 24TH FEBRUARY, 2018 AT 9.30 AM IN IVORY LOUNGE, SAFARI PARK HOTEL

PRESENT

1. Hon. James Opiyo Wandayi, MP - **Chairman**
2. Hon. Junet Mohammed Nuh, MP
3. Hon. Maj. (Rtd) (Dr.) Eseli Simiyu, MP
4. Hon. Christopher Doye Nakuleu, MP
5. Hon. Patrick Makau King'ola, MP
6. Hon. Gideon Koske, MP
7. Hon. Francis Kuria Kimani, MP
8. Hon. Samson Ndindi Nyoro, MP
9. Hon. Peter Francis Masara, MP
10. Hon. Michael Thoyah Kingi, MP
11. Hon. Florence Mutua, MP
12. Hon. James Gichuhi Mwangi, MP
13. Hon. Daniel Kipkogei Rono, MP
14. Hon. Qalicha Gufu Wario, MP

APOLOGIES

1. Hon. Jessica Nduku Kiko Mbalu, MP - **Vice- Chairperson**
2. Hon. John Bunyasi Sakwa, MP
3. Hon. Mathias Robi Nyamabe, MP
4. Hon. Michael Mwangi Muchira, MP
5. Hon. Paul Otiendo Amollo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Oscar Namulanda - Principal Clerk Assistant II
2. Mr. Nerbert Ikai - Clerk Assistant III
3. Mr. Sydney Lugaga - Legal Counsel
4. Ms. Catherine Ghati - Fiscal Analyst
5. Ms. Caroline Njue - Research Officer
6. Mr. Yaqub Ahmed - Media Relations Officer
7. Ms. Farida Ngasura - Audio Officer
8. Mr. Abdi Salat - Senior Sergeant At Arms
9. Mr. Mohammed Roba - Security
10. Ms. Purity Nkari - Receptionist
11. Ms. Alice Kitur - Secretary

MIN No. 024/2018: PRELIMINARIES

The Chairman called the meeting to order at Thirty minutes past Nine O'clock with a word of Prayer.

MIN No. 025/ 2018: CONFIRMATION OF MINUTES

The confirmation of the minutes of the previous sitting was deferred to the next meeting. Therefore there were no matters arising.

MIN No. 026/2018: DELIBERATIONS ON THE SUBMISSIONS MADE BY THE PARLIAMENTARY SERVICE COMMISSION

Having met the Parliamentary Service Commission, and received submissions from the Commission Secretary and Accounting Officer Mr. Jeremiah M. Nyegenye, the Committee made the following observations:

1. On the matter of unfinished works of refurbishment of Harambee Sacco plaza;

- i. The project was a 'frustrated project' due to dragging litigations between the Landlord and Tenants still occupying space in the building.
- ii. There was need for the Committee to be provided with all documentations in regard to the agreement and exit of the contract agreement signed between the PSC and Harambee Co-operative Sacco.
- iii. There was an urgent need to assess the level of work done by the contractor in the building.
- iv. That building internal capacity of public works personnel would deviate from the core mandate of the Commission and unnecessarily increase the recurrent expenditure of the Commission. The Committee observed that the Ministry of Roads and Public Works had the best qualified Engineers who should devote to their duties.
- v. The Committee proposed to invite the Ministry of Roads and Public works to shed more light on what causes delay in the issuing of certificates of clearance and, that a policy should be developed to have penalties imposed on the Ministry of Roads and Public works whenever they delay to issue certificates of clearance.
- vi. The Committee observed that the audit issue had been resolved

2. On Interest on Delayed Payments KES 62, 251, 760.00

The Committee observed that the audit issue had been resolved

MIN No. 027/2018: ANY OTHER BUSINESS

The Committee resolved to examine the accounts of a few Commissions with less or no issues raised by the Auditor General in his audit report for the financial year 2015-2016

These Commissions include: - the National Lands Commission, the Ethics and Anti-Corruption Commission, the National Cohesion and Integration Commission and the Commission on Revenue Allocation. This meeting will be held on Friday, 2nd March 2018 in Committee Room 9, Parliament Buildings at 10:00am.

MIN No. 028/2018: ADJOURNMENT

The Chairperson adjourned the Sitting Fifteen minutes to one O'clock. Next sitting will be held on Saturday 24th February 2018 at Ivory Lounge, Safari Park Hotel at 2:30pm.

Signed.......... Date. 27/02/2018

Chairperson.....HON. WAMBAYI.....

MINUTES OF THE 4th SITTING OF THE PUBLIC ACCOUNTS
COMMITTEE HELD ON FRIDAY 23RD FEBRUARY 2018 AT 2:30 P.M. IN
IVORY LOUNGE, SAFARI PARK HOTEL.

PRESENT

- | | | |
|--|---|-----------------|
| 1. Hon. James Opiyo Wandayi, M.P. | - | Chairman |
| 2. Hon. Maj. (Rtd.) Dr. Eseli Simiyu, MP | | |
| 3. Hon. Patrick Makau King'ola, MP | | |
| 4. Hon. Sakwa John Bunyasi, M.P. | | |
| 5. Hon. Junet Mohamed Nuh, M.P. | | |
| 6. Hon. Christopher Doye Nakuleu, M.P. | | |
| 7. Hon. Gideon Koske, M.P. | | |
| 8. Hon. Francis Kuria Kimani, M.P. | | |
| 9. Hon. Samson Ndindi Nyoro, M.P. | | |
| 10. Hon. Qalicha Gufu Wario, M.P. | | |
| 11. Hon. Peter Francis Masara, M.P. | | |
| 12. Hon. Michael Thoya Kingi, M.P. | | |
| 13. Hon. Daniel Kipkogei Rono, MP | | |

APOLOGIES

1. Hon. Jessica Nduku Kiko Mbalu, M.P.
2. Hon. Mathias Nyamabe Robi, M.P.
3. Hon. Michael Mwangi Muchira, M.P.
4. Hon. Florence Mutua, M.P.
5. Hon. Paul Otiende Amollo, M.P.
6. Hon. James Gichuhi Mwangi, M.P.

IN ATTENDANCE

Office of the Auditor General

- | | | |
|-------------------------------|---|------------------------------|
| 1. Mr. William Agunda | - | Deputy Auditor General (Ag.) |
| 2. Mr. Richard Otworu | - | QAG (Manager) |
| 3. Mr. George Otieno-Nahashon | - | OAG (Manager) |
| 4. Mr. Justin Rucha | - | OAG (Manager) |

The National Treasury and Ministry of Planning

- | | | |
|-------------------------|---|--------------------------------|
| 1. Rev. Kimathi Kwigira | - | Accountant (National Treasury) |
|-------------------------|---|--------------------------------|

National Assembly

- | | | |
|--------------------------------|---|------------------------------|
| 1. Mr. Oscar Namulanda Wesonga | - | Principal Clerk Assistant II |
| 2. Mr. Nerbert Ekai | - | Clerk Assistant |

3. Mr. Catherine Burure	-	Fiscal Analyst
4. Ms. Caroline Njue	-	Research Officer
5. Mr. Sidney Okumu Lugaga	-	Legal Counsel
6. Mr. Yaqub Ahmed	-	Media Relations Officer
7. Ms. Farida Ngasura	-	Audio Recording Officer
8. Mr. Salat Abdi	-	Sergeant-at-Arms
9. Mr. Mohammed Roba	-	Security Officer
10. Ms. Alice Kitur	-	Secretary
11. Ms. Purity Nkare	-	Documentation Officer

MIN No. 020/2018: PRELIMINARIES

The Chairman called the meeting to order at 2:30 p.m. in the afternoon and introductions followed soon after.

MIN No. 021/2018: CONFIRMATION OF MINUTES

The agenda item was deferred to the next meeting. There were thus no matters arising.

MIN No. 022/2018: EVIDENCE: PARLIAMENTARY SERVICE COMMISSION

The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the 2015/2016 Financial Year

Mr. Jeremiah Nyegenye, the Secretary to the Commission and Accounting Officer appeared before the Committee accompanied by the following officers;

1. Dr. George Wakah	-	Director Finance and Accounting (Ag)
2. Mr. Anthony Njoroge	-	Director Litigation & Conveyance
3. Mr. Johnson N MUYERA	-	Chief Accountant Senate (Ag)

and gave evidence on:

1. Paragraph 1 on Stalled Refurbishment and Petitioning of Offices at Harambee Co-operative Plaza:

- (i) That it was true that the contract was awarded and had been paid up to a sum of 39% of the contract price as at 31st March 2016.
- (ii) Notices of termination were issued by the landlord in 2012 and the spaces were to be occupied in January 2013. The landlord later informed the commission that while a number of tenants vacated the premises, some tenants had proceeded to the Landlord and Tenant Tribunal and obtained restraining orders to terminate the tenancies.
- (iii) Handing over was done for only the spaces where tenants had accepted termination and vacated the premises.

(iv) Due to the above the project Manager has been requested to certify that the contract has been frustrated and the contractor can only be paid for work done.

2. Paragraph 2 on Interest on Delayed Payments KES 62, 251, 760.00

The delay was as a result of the following:

- (i) Release of the contractors' certificates through the Project manager in the Ministry of Lands and Housing takes a long time hence affecting the onward transmission to PSC for processing and payment.
- (ii) IFMIS has been experiencing frequent break downs which delays processing of payment which is a challenge to PSC.
- (iii) Release of exchequer on request has greatly contributed to delay in payment of certificates.

In its 225th meeting held on 25th February 2016, the Commission resolved as follows:

- (iv) For projects costing less than Ksh 20 Million that have been outsourced, the Commission uses the office of the Chief Engineer to undertake project management internally.
- (v) For projects above Ksh 20 Million it was agreed that the Commission engages a Project Manager to manage the projects on behalf of the Commission, and consultants to design and carry out construction supervision. The project manager and the consultant to be sourced separately or proper execution of projects with the office of the Chief Engineer providing overall supervision and co-ordination
- (vi) The two teams of professionals engaged for projects above Ksh. 20 Million should be procured at the same time and from different firms at the inception of a project.

MIN No. 023/2018: EVIDENCE: THE NATIONAL ASSEMBLY OF KENYA

The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the 2015/2016 Financial Year

Mr. Michael R. Sialai, the Clerk National Assembly and Accounting Officer appeared before the Committee accompanied by the following officers;

1. Dr. Wakah George - Director Finance and Accounting (Ag.)
2. Mr. Anthony Njoroge - Director Litigation & Conveyance
3. Mr. Peter A. Meikoki - Chief Accountant

and gave evidence on:

Paragraph 1- on Mileage claims for the financial year 2015/2016.

- (i) Parliament has by practice been paying Mileage to Members as a reimbursable facility for many years.
- (ii) On 1st of June 2013, SRC, after consultations with the PSC released a Circular Ref: SRC/TS/HRCOH/3/25 providing guidelines on payment of mileage claims to State Officers and that claim should be calculated based on the applicable AA rates and distance from the Member's home.
- (iii) Before the circular was issued, PSC had entered into a memorandum of understanding with SRC on 10th June, 2013. The MOU provided that a Member would be paid mileage as follows:
 - (a) For the first 750 Kms per month, a fixed rate of 356,525/- per month to all Members of Parliament
 - (b) Any mileage claim beyond 750 Kms per month be paid at the applicable AA rates of KES 109.8*750Kms*52Weeks/12 Weeks. The mileage was to be calculated based on the distance to the Member's home. However, the PSC and SRC were to discuss the possibility of extending the calculation to be based on the furthest point of the Member's area of representation.
- (iv) Parliament implemented the terms of the SRC Circular of 11th June 2013 which was in tandem with the MOU and Members who travelled beyond 750Km per month were compensated by paying mileage at AA rates.
- (v) On 1st November 2013, the SRC issued a second Circular which addressed the issue of mileage and provided that, "*the existing rates be retained as the decision provided in the letter Ref: SRC/TS/HRCOH/3/25 and dated 11th June 2013. is that Members whose areas of representation was beyond 375Km (750Km return journey) claim reimbursement for the actual extra kilometres covered.*" This Circular brought about a ambiguity by providing that the '*existing rates be retained as per the decision provided in the First Circular of 11th June 2013*' while at the same time providing that '*that Members whose areas of representation was beyond 375Km (750Km return journey) claim reimbursement for the actual extra kilometres covered.*'

(vi) Parliament submitted that in its opinion, its interpretation of the first circular and more particularly guided by the MOU entered, was correct and thus the justification for processing of mileage totalling KES 569,363,394 to both Members of the National Assembly and the Senate. Parliament also argued that, in interpreting the two circulars emanating from the SRC, it was informed by the *Contra Proferentem* rule used in courts when interpreting contracts when ambiguity arises

(vii) That the PSC is exploring ways of compensating Members representing Nairobi County and its surroundings

Paragraph 2 - on Outstanding Imprests:


That all imprests that were outstanding as at 30th June 2016 have been fully recovered and outstanding balance thereof is nil.

Paragraph 3 - on Accounts Payable:

That all pending bills were cleared during the 2016/2017 Financial Year.

MIN No. 024/2018: ADJOURNMENT

There being no other business, the sitting adjourned at in the afternoon. Next sitting will be held on 24th February 2018 at 9:30 am.

Signed.....  Date 22/02/2018

Chairperson HON. WANDAYI

**MINUTES OF THE 3RD SITTING OF THE PUBLIC ACCOUNTS COMMITTEE
HELD ON FRIDAY, FEBRUARY 23, 2018 IN IVORY LOUNGE, SAFARI PARK
HOTEL, AT 9.00AM.**

PRESENT

1. The Hon. James Opiyo Wandayi, MP - **Chairperson**
2. The Hon. Junet Mohamed Nuh, MP
3. The Hon. Maj. (Rtd.) Dr. Eseli Simiyu, MP
4. The Hon. Patrick Makau King'ola, MP
5. The Hon. Sakwa John Bunyasi, MP
6. The Hon. Christopher Doye Nakuleu, MP
7. The Hon. Peter Francis Masara, MP
8. The Hon. Gideon Koske, MP
9. The Hon. Daniel Kipkogei Rono, MP
10. The Hon. Samson Ndindi Nyoro, MP
11. The Hon. Qalicha Gufu Wario, MP
12. The Hon. Francis Kuria Kimani, MP
13. The Hon. Michael Thoyah Kingi, MP

APOLOGY

1. The Hon. Jessica Nduku Kiko Mbalu, MP - **Vice Chairperson**
2. The Hon. Mathias Nyamabe Robi, MP
3. The Hon. James Gichuhi Mwangi, MP
4. The Hon. Paul Otiende Amollo, MP
5. The Hon. Florence Mwikali Mutua, MP
6. The Hon. Michael Mwangi Muchira, MP

IN-ATTENDANCE

Office of the Auditor General

1. Mr. William Agunda - Ag. Deputy Auditor General
2. Mr. George Nashon Otieno - Deputy Director Audit
3. Mr. Richard Otworu - Manager
4. Mr. Justin Rucha - Manager

National Treasury and Ministry of Planning

1. Rev Kimathi Kwiriga - Accountant

National Assembly

1. Mr. Oscar Namulanda - Principal Clerk Assistant
2. Mr. Sidney Bwire - Legal Officer II
3. Mr. Nebert Ikai Lomechu - Clerk Assistant III
4. Ms. Caroline Njue - Research Officer III

5. Ms. Catherine Ghati	- Fiscal Analyst III
6. Mr. Yaqub Ahmed	- Media Relation Officer
7. Mr. Abdi Salat	- Senior Sergeant at Arms
8. Ms. Farida Ngasura	- Director Audio
9. Mr. Mohamed Rabi	- Security Officer
10. Ms. Alice Kitur	- Secretary
11. Ms. Purity Nkari	- Secretary

MIN.NO. 012/2018: PRELIMINARIES

The Chairperson called the meeting to order at Twenty minutes past Nine followed by a Prayer and introductions.

**MIN.NO. 013/2018: BRIEF BY THE CHAIRMAN ON THE RESOLUTION ON
RETREAT BY THE LIASON COMMITTEE HELD IN
MOMBASA**

The chairman informed members that he had attended a liaison Committee meeting in Mombasa. The retreat deliberated on a number of issues affecting Committees and resolved that:-

- Committee Members devote in delivery of their respective Committee Mandates;
- Quality of Committee Reports should be of high standards;
- The National Assembly Budgetary allocation should be in proportionate its functions and the number of Committees and, the allocations made to Committees by the Liaison Committee be equally subdivided among all Committees;
- Trips would be given to Members who take Committee work seriously and attend all meetings; and
- Committees should seek the advice from the Office of the Clerk for efficient and effective management of retreats, workshops and sittings outside Parliament.

The Chairperson informed the Committee that he had been invited to attend a Conference on Ethics, Integrity and Anti-Corruption in Birmingham City – United Kingdom from March 19 – 23, 2018. He had requested the Speaker to allow 6 other Members to accompany him and he had approved. He further informed Members that he will be distributing trips equally to active and committed Members of the Committee and the Secretariat.

The following were nominated to attend the Conference on Ethics and Integrity for Public Sector Leaders and Accounting Officers to be held in Birmingham City from 19th to 23rd March, 2018. They include:

- | | | |
|--------------------------------------|---|--|
| 1. The Hon. James Opiyo Wandayi | - | Chairman and Leader of the Delegation |
| 2. The Hon. Sakwa John Bunyasi | - | Member |
| 3. The Hon. Christopher Doye Nakuleu | - | Member |
| 4. The Hon. Florence Mwikali Mutua | - | Member |
| 5. The Hon. Junet Nuh | - | Member |
| 6. The Hon. Francis Kuria Kimani | - | Member |
| 7. The Hon. Daniel Kipkogei Rono | - | Member |

MIN.NO. 014/2018: CONFIRMATION OF MINUTES

The Minutes of the Second Sitting held on February 13, 2018 were confirmed as a true record of the proceeding of that meeting and signed by the Chairperson after being proposed by Hon Patrick Makau King'ola, MP and seconded by Hon Sakwa John Bunyasi, MP.

MIN.NO. 015/2018: MATERS ARISING

No matter arose

MIN.NO. 016/2018: RETABLING OF NYS REPORT

It was resolved that the Committee be apprised on the content of the report with a view of re-tabling it for adoption by the House. The secretariat was asked to distribute copies of the said report to Members.

MIN.NO. 017/2018: ADOPTION OF WORK OF WORK PLAN AND APPEARANCE SCHEDULE

Adoption of work adoption of work plan and appearance schedule was differed to the next sitting.

MIN.NO. 018/2018: PRESENTATION BY THE OFFICE OF THE AUDITOR GENERAL

The Office of the Auditor made presentation on the role of Office of the Auditor-General viz avis PAC, Audit Queries and Audit Opinions as follows:

1. That Article 10 of the Constitution of Kenya 2010 enumerates the National Values and Principles of Governance to include but not limited to; patriotism, national unity, rule of law, democracy, participation of people, good governance, the principle of accountability, transparency, integrity and sustainable development. The Constitution has also brought established effective checks and balances through Institutions set out therein.

That the Office of the Auditor General has three pillars Strategy namely:

- I. **Fiscal Accountability** – Certification of accounts

- II. **Managerial Accountability**-Continuous presence
 - III. **Delivery Accountability**-Value for Money (VFM) audits to confirm Economic Effectiveness, Efficiency, Equity, Ethics and Environmental issues.
2. Members were informed of the following types of audit:
- I. **Regularity / Financial Audit** - Whether an entity's financial information is presented in accordance with the applicable financial reporting and regulatory framework
 - II. **Compliance Audit** - whether, the subject matter is in compliance with the set laws and regulations.
 - III. **Forensic Audit** – whether evidence collected is admissible in a court of law where fraud has been alleged
 - IV. **Performance Audit** - review the subject matter from the perspectives of economy, efficiency and effectiveness, ethics and environmental issues.
 - V. **Information System (IS) Audit** - examination of the management controls within an Information technology (IT) infrastructure
 - VI. **Procurement Audit**- adherence to the Procurement Act & Regulations
3. Members were also informed of the symbiotic relationship between OAG and PAC. The inter relation was such that the OAG produces the report that form the basis for PAC work. These Reports are subjected to parliamentary of process where evidence is collected, hearings done and submissions made. The Committee makes its findings, observations and recommendations through reports tabled and adopted by the House. These Reports translate into effective pressure upon the Executive to improve financial control and efficiency, and ultimately public-sector performance.

The Auditor-General relies heavily on PAC to consider all annual reports that are tabled.

That each Accounting Officer was individually responsible, and thus accountable to PAC for the financial management and performance of his/her department

It was apparent to Members that good governance and accountability were ideals which can be achieved in their totality if respective Government Agencies work in harmony

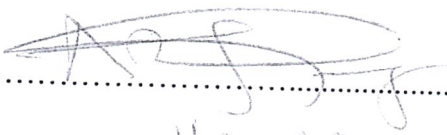
Members' Observation

Members observed that the Office of the Auditor General was seriously underfunded leading its low performance due to understaffing and lack of modern auditing facilities.

MIN.NO. 019/2018:

ADJOURNMENT

The Chairperson adjourned the meeting at thirty minutes past Twelve O'clock. The next meeting will be held on Friday, February 23, 2018 in Ivory Lounge at 2:30pm.

SIGN.....

DATE 27/02/2018

CHAIRPERSON.....HON. WARDAYI

