



REPUBLIC OF KENYA


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THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES  
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

REPORT ON:

THE INQUIRY INTO THE MAIZE FLOUR SUBSIDY PROGRAMME FOR FINANCIAL  
YEAR ~~2022/23~~

 THE NATIONAL ASSEMBLY PAPERS LAID	
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DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

JUNE 2023

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## LIST OF ABBREVIATIONS AND ACRONYMS

UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement
NOPEU	-	National Ordinary People Empowerment Union
CMA	-	Cereal Millers Association
GMOA	-	Grain Mill Owners' Association
NCPB	-	National Cereals and Produce Board
KSh	-	Kenya Shillings
FY	-	Financial Year
AFA	-	Agriculture and Food Authority
Kgs	-	Kilograms
COMESA	-	Common Market for Eastern and Southern Africa
UN	-	United Nations
SDGs	-	Sustainable Development Goals
KEBS	-	Kenya Bureau of Standards

## LIST OF ANNEXURES

1. Adoption Schedule
2. Minutes
3. Contracts submitted by the stakeholders
4. Letters Inviting Stakeholders for the Meetings

## CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Agriculture and Livestock on the inquiry into the Maize Flour Subsidy Programme implemented in the FY 2022/23.

The objective of the inquiry was to establish whether the Maize Flour Subsidy Programme for FY 2022/23 achieved its objective of providing cheap sifted maize flour to Kenyans and whether there was value for money.

In the recent years, Kenya has been experiencing maize deficit as a result of prolonged drought which has increased in frequency and intensity, below average rainfall performance, high cost of agricultural inputs, decreasing acreage of land for farming due to population growth, poor agronomic practices among others. To bridge the deficit, the country relies on maize imports from the East African Community and COMESA Region. However, this was not the case in 2022 because there was poor production of maize in the Region.

Due to the maize shortage, prices increased from KSh. 3,000 to KSh. 3,500 per 90 Kg bag in April 2022 to KSh. 4,600 to KSh. 5,000 in May 2022. To cushion consumers from the high prices, the Government waived duties and levies on maize imports from countries outside the East African and COMESA regions to bridge the gap. Despite this, maize prices continued to rise due to shortage, disruption in the global supply chain and high fuel prices. A 2Kg packet of sifted maize flour was retailing at between KSh. 190 and KSh. 215. The Government made a decision to further cushion consumers through the Maize Flour Subsidy Programme.

In carrying out the inquiry, the Committee held meetings with the Cereal Millers Association, the Grain Mill Owners Association and the Ministry of Agriculture and Livestock Development. The Committee also received a written submission on the Programme from the National Treasury and Economic Planning and Office of the Attorney General.

From the meetings, the Committee established that sifted maize flour under the Programme was not stamped and this may have reduced the success levels of the Programme. The Committee received two different contracts from the stakeholders but established that all millers that participated in the Programme signed the same contract.

The Committee received different figures of maize flour supplied in the Programme from the Ministry of Agriculture and Livestock, the Cereal Millers Association and the Grain Mill Owners Association. Additionally, the amount of money paid and that owed to the millers provided to the Committee by the three stakeholders were different.

From the above observations, the Committee recommended that the millers under Grain Mill Owners' Association be paid the money owed to them by the Ministry. The Committee will undertake further investigation into the matter in order to determine the fate of the Cereal Millers' Association.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank CMA, GMOA, Ministry of Agriculture and Livestock Development, Office of the Attorney General and the National Treasury and Economic Planning for making this inquiry successful. Finally, I wish to express my appreciation to Members of the Committee and the Committee secretariat who made useful contributions towards the production and preparation of this report.

On behalf of the Departmental Committee on Agriculture and Livestock and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on the Inquiry into the Maize Flour Subsidy Programme for FY 2022/23.

**Hon. (Dr.) John K. Mutunga, M.P.**  
**Chairperson, Departmental Committee on Agriculture and Livestock**

## PART ONE

### 1 PREFACE

#### 1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Agriculture and Livestock is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
- iii. On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. To study and review all the legislation referred to it;*
- v. To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- viii. To examine treaties, agreements and conventions;*
- ix. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. To examine any questions raised by Members on a matter within its mandate.*

#### 1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, agriculture, livestock, food production and marketing.
3. In executing its mandate, the Committee oversees the Ministry of Agriculture and Livestock Development.

### 1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Agriculture and Livestock was constituted by the House on 27<sup>th</sup> October 2022 and comprises of the following Members:

#### **Chairperson**

Hon. (Dr.) John Kanyuithia Mutunga, MP  
Tigania West Constituency

**UDA Party**

#### **Vice-Chairperson**

Hon. Brighton Leonard Yegon, MP  
Konoin Constituency

**UDA Party**

Hon. Sabina Wanjiru Chege, CBS, MP  
Kitutu Chache North Constituency

**Jubilee Party**

Hon. Ferdinand Kevin Wanyonyi, MP  
Kwanza Constituency

**Ford Kenya Party**

Hon. Geoffrey Makokha Odanga, MP  
Matayos Constituency

**ODM Party**

Hon. Justice Kipsang Kemei, MP  
Sigowet/Soin Constituency

**UDA Party**

Hon. Jared Okello Odoyo, MP  
Nyando Constituency

**ODM Party**

Hon. Lawrence Mpuru Aburi, MP  
Tigania East Constituency

**NOPEU Party**

Hon. David Kiplagat, MP  
Soi Constituency

**UDA Party**

Hon. Gabriel Gathuka Kagombe, MP  
Gatundu South Constituency

**UDA Party**

Hon. Monicah Muthoni Marubu, MP  
Lamu County

**Independent Member**

Hon. Pamela Njoki Njeru, MP  
Embu County

**UDA Party**

Hon. Patrick Kibagendi Osero, MP  
Borabu Constituency

**ODM Party**

Hon. Peter Kalerwa Salasya, MP  
Mumias East Constituency

**ODM Party**

Hon. Yussuf Mohamed Farah, MP  
Wajir West Constituency

**ODM Party**



#### 1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Secretariat:

Ms. Laureen Omta Wesonga  
**Clerk Assistant I/Head of Secretariat**

Mr. Victor Kanda Kilimo  
**Clerk Assistant III**

Mr. Ahmednoor Sheikh Hassan  
**Clerk Assistant III**

Ms. Brigitta Mati  
**Legal Counsel I**

CPA. Robert Ng'etich  
**Fiscal Analyst I**

Mr. David Ng'eno  
**Research Officer II**

Ms. Sheila Chebotibin  
**Senior Serjeant-At-Arms**

Ms. Noelle Chelagat  
**Media Relations Officer II**

Mr. Gerald Kadede  
**Legal Counsel II**

Mr. Muhumed Shillow  
**Research Officer III**

Mr. Richard Sang  
**Serjeant-At-Arms**

Mr. Kelvin Sekani  
**Audio Officer III**

## PART TWO

### 2 BACKGROUND OF THE MAIZE FLOUR SUBSIDY PROGRAMME

#### 2.1 INTRODUCTION

6. Maize is a cereal and the most important staple food crop in Kenya. It is grown as a subsistence and commercial crop on about 2.2 million hectares of land, by both large and small-scale farmers. The current national average production is between 16 and 20 bags per hectare but with appropriate interventions, production can be doubled.
7. It is an important food crop for humans and a key ingredient in many animal feeds. It is a major source of food not only for Kenya but for people in many parts of the world, particularly in Latin America and Africa.
8. Global production of maize was estimated at 1.05 billion metric tons in 2022, up from 990 million metric tons in 2020. Most of the increase in maize production was attributed to China, the United States of America, Brazil, Mexico, Argentina, South Africa and Ukraine.
9. In efforts to realize high maize production, different countries pursue various interventionist strategies. China, for example, introduced the following interventions aimed at making the country 95% self-sufficient in major cereals: Formulation of policies that support grain production; developing marketing and logistics systems; putting in place a grain reserve policy; and supporting development of grain processing industries.
10. Some countries in Africa have been implementing various interventions in a bid to increase productivity in the maize subsector, which have resulted to drastic increase in maize production as witnessed in Malawi and Zambia.
11. Kenya has been implementing a number of interventions to improve maize production in order to achieve food and nutritional security and to ensure that the country becomes food sufficient. However, despite the effort by the Government, the country has continued to be faced with food shortage where approximately 4.1 million people were faced with hunger in 2022, forcing the Government to rely on imports from international markets and neighbouring countries to plug off the deficit which eventually sustained negative trade of balance between exports and imports.
12. This in effect threatens Kenya's pursuit for Agenda 2030 as outlined in UN SDGS of eradicating hunger and poverty by the year 2030 and achieving sustainability in food sufficiency.

#### 2.2 SUBSIDY PROGRAMMES IN KENYA

##### **Interventions during President Mwai Kibaki's Administration**

13. In September 2011, former President Mwai Kibaki signed into law the Price Control (Essential Goods) Bill that allowed Kenya to return to price controls on any essential commodity after the practice was abandoned in the 1990s in favour of economic liberalization.
14. The law allowed the Minister for Finance to set maximum prices of gazetted essential commodities upon consultation with the relevant industry. In the run-up to the 2017 General

Election, the Government used the order under the Price Control (Essential Goods) Act to cap flour prices at KSh. 90 for a 2Kg packet after retail prices hit KSh. 143.

### **Interventions during President Uhuru Kenyatta's Administration**

15. In mid-2022, flour prices sky-rocketed to a record high price of KSh. 210 for a 2Kg packet. The Government introduced a short-term Maize Flour Subsidy Programme implemented between 21<sup>st</sup> July and 17<sup>th</sup> August 2022.
16. Under the Programme, consumers were to purchase a 2Kg packet of sifted maize flour at KSh. 100 instead of the prevailing price of KSh. 210 in a move that was aimed at making the flour affordable to most Kenyans.
17. It has been argued that in the Kenyan model, farmers enjoy a double subsidy. Ideally, the Government should intervene on either the supply side or the demand side, but not both. For example: the Government can intervene to keep costs of production as low as possible so that consumers buy food at market prices or allow producers to sell at market prices and subsidize prices for consumers who cannot afford these prices.

### **Comparative Analysis of Maize Subsidy Programmes in other Jurisdictions**

18. The Chinese subsidy programme cushions both farmers and consumers. During harvest, the Government buys maize at prices higher than the market rate thus enabling farmers to break-even. The Government then sells the same at a price lower than the market price thus cushioning the consumers.
19. The consumer subsidy model has been used by India and Egypt where households are given a cash transfer to purchase food.
20. Malawi achieved food self-sufficiency through the Farm Input Subsidy Program (FISP) by increasing smallholder farmers' access to and use of improved agricultural inputs thereby boosting incomes of resource-poor farmers. The Program was administered through vouchers or coupons that enabled eligible households to purchase fertilizer, hybrid seeds and pesticides at reduced prices. The program targeted smallholder farmers who own land and were legitimate residents of their villages. The strategy increased maize productivity in Malawi.

### **Conclusion**

21. To maintain stable production and prices, the Government needs to focus on long-term interventions that will improve productivity and lower the production costs per unit. These include among others water harvesting and storm water management initiatives to preserve water during the rainy season for sustainable production year-round and climate smart agriculture.
22. Increase investment in irrigated agriculture by both the National and county governments as the case of Galana-Kulalu Irrigation Project to increase the area under irrigation.
23. The government needs to restructure the fertilizer subsidy program to improve access and timely delivery, incorporate soil quality testing and crop needs in fertilizer decisions, incorporate extension services and include private sector in the Fertilizer Subsidy Programme and the type of fertilizer that is subsidized should suit local conditions because tailored fertilizers have an effect on

improving maize yields. Expand fertilizer subsidy to both small and large-scale farmers and include lime in the Subsidy Programme.

24. When short-term intervention in the markets is required, it should be strategic and with a clear exit strategy. Such a response should be limited to managing shocks such as pest infestation, crop failure due to drought and disease outbreaks. Currently, short-term interventions seem to be the only response, leading to the same challenges being repeated.
25. Provision and promotion of improved maize seeds that are climate resilient to counties as well as effective crop pest and disease control measures.
26. Invest in early warning systems to enhance the resilience of farmers in adapting and mitigating the effects of climate change.

### **2.3 THE MAIZE FLOUR SUBSIDY PROGRAMME FOR FY 2022/23**

27. During consideration of Supplementary Estimates No. 1 for FY 2022/23 Members of the Departmental Committee on Agriculture and Livestock observed that KSh. 7.267 billion had been spent on the Maize Flour Subsidy Programme out of which KSh. 4 billion had been paid under Article 223 of the Constitution while KSh. 3.267 billion was yet to be paid to the millers.
28. The KSh. 4 billion was spent in July 2022 and presented to the Committee for regularisation through the Supplementary Estimates as required by the Constitution. The Committee did not approve the expenditure on account of non-disclosure of information on who the maize suppliers were, the quantity of maize supplied, the areas in which the subsidised maize flour was supplied and the retail outlets that sold the maize.
29. It is for the above reasons that the Committee resolved to conduct an inquiry into the Maize Flour Subsidy Programme whose objectives were, To:
  - i. find out whether the Programme achieved its objective;
  - ii. establish whether the identification process for the millers was free and fair; and
  - iii. find out if there was value for money in the execution of the Programme.

## PART THREE

### 3 MEETING WITH STAKEHOLDERS ON THE MAIZE FLOUR SUBSIDY PROGRAMME

30. In a bid to establish the status of the Maize Flour Subsidy Programme for the Financial Year 2022/23, the Committee invited stakeholders for the meetings via letters REF: NA/DDC/A&L/2023/005, NA/DDC/A&L/2023/006, NA/DDC/A&L/2023/022 and NA/DDC/A&L/2023/023. The Committee received submissions from the following stakeholders:

- i. Cereal Millers' Association
- ii. Grain Mill Owners' Association
- iii. Ministry of Agriculture and Livestock Development
- iv. The National Treasury and Economic Planning
- v. Office of the Attorney General

The stakeholders submitted as follows:

#### 3.1 CEREAL MILLERS' ASSOCIATION

In a meeting held on Tuesday, 14<sup>th</sup> March 2023, Ms. Paloma Fernandes, Chief Executive Officer of the Cereal Millers' Association responded to the questions asked by the Committee as follows:

31. **How the millers who participated in the process were identified from the totality in the sector:** The Programme was open to all millers. Each miller signed their individual contract with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives with clear terms.
32. **The Context and content of the contracts issued to the millers for the supply of subsidized maize flour:** Article three of the contract signed between the millers and the Government provided for pricing and calculation of the subsidy. The Government entered into contract with 29 CMA millers.
33. **How the contracts to supply the subsidized maize flour were awarded to the identified millers:** Every participating miller was required to have been registered by the Agriculture and Food Authority (AFA). The miller was required to declare its:
- i. Milling and utilization capacities and stocks held at the commencement date of the Programme;
  - ii. Participation in an association for identification and confirmation of the payments; and
  - iii. Submit daily invoices for the subsidy amount due to the PS, State Department for Crop Development and Agricultural Research.
34. **The amount of maize flour that was supplied under the programme and the scope of coverage of the country:** According to NCPB, 5,264,073 (24 Kg) bales of flour totaling 126,337,752 Kgs were supplied by all millers. This amounted to approximately KSh. 6.6 billion.
35. **The amount of money that the government owes for the supply of maize:** Members of CMA supplied flour worth KSh. 4,495,356,547.12. The millers were paid KSh. 1,905,845,377.07 leaving a balance of KSh. 2,589,511,170.05.

36. **How the distribution of maize flour was done under the Programme and how it was managed and any possible list of retail outlets that flour reached:** A multi-agency taskforce was put in place to oversee successful implementation of the Programme.

The Ministry of Agriculture, Livestock, Fisheries and Cooperatives was responsible for deploying market surveillance teams to ensure that the flour was sold at the maximum recommended retail price of KSh. 100 per 2 Kg packet.

### 3.2 GRAIN MILL OWNERS' ASSOCIATION

In a meeting held on Tuesday, 14<sup>th</sup> March 2023, Mr. Ken Nyaga, Chairman of the Grain Mill Owners' Association responded to the questions asked by the Committee as follows:

37. **How the millers who participated in the process were identified from the totality in the sector:** The Programme was open to all millers who registered their interest to participate in the Programme and signed contracts with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.
38. **The Context and content of the contracts issued to the millers for the supply of subsidized maize flour:** The circumstances that informed the award of the contracts was based on the responses of the millers and the vetting process by the Ministry supported by other government agencies forming the multi-agency team.
- Every participating miller signed a contract with the Government.
39. **How the contracts to supply the subsidized maize flour were awarded to the identified millers:** The National Maize Flour Subsidy Programme Oversight Implementation Committee was tasked to verify the list of all registered millers participating in the Programme.
40. **The amount of maize flour that was supplied under the programme and the scope of coverage of the country:** The following are the figures that were reported in the taskforce final meeting:
- |                          |   |  |
|--------------------------|---|--|
| i. Total                 | – | KSh. 6,466,947,036 (123,143,928 Kgs);    |
| ii. Large Scale Millers  | – | KSh. 3,862,243,261 (73,550,147 Kgs); and |
| iii. Small Scale Millers | – | KSh. 2,604,253,775 (47,593,781 Kgs).     |
41. **The amount of money that the government owes for the supply of maize:** Members of the Association are owed KSh. 399,552,095.37 by the Government.
42. **How the distribution of maize flour was done under the Programme and how it was managed and any possible list of retail outlets that flour reached:** The Programme was supervised by a multi-agency taskforce referred to as the National Maize Subsidy Programme Oversight Implementation Committee that had very clear terms of reference.
43. **Impact of non-payment on millers:** Most milling companies in the Association are family businesses with limited financial resources. The delayed payments have had the following effects on them:
- |   |
|---|
| i. Some are facing closure due to debt burden, auctioneers and lack of money to buy new maize stocks. |
|---|

- ii. Job losses.
- iii. Operational losses due to reduced operational capacity.
- iv. Broken families due to financial difficulties and mental health issues.
- v. High prices to consumers due to unavailability of locally produced flour.
- vi. Reduced faith in Government partnerships.

### 3.3 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

In a meeting held on Wednesday, 22<sup>nd</sup> March 2023, Hon. Mithika Linturi, Cabinet Secretary, Ministry of Agriculture and Livestock Development informed the committee that between January and April 2022, the country was facing an acute shortage of maize which in turn led to the increase in the prices of sifted maize flour to retail at an average of KSh. 190 to KSh. 215 per 2 Kilogram packet. In light of the above, the government made a decision to cushion consumers from the high prices by allocating resources to finance the Maize Flour Subsidy Programme. He responded to the Committee's questions as follows:

44. **Identification of the millers who participated in the Programme:** The CS for National Treasury and planning held meetings on 15<sup>th</sup> and 20<sup>th</sup> July 2022 to discuss the Maize Flour Subsidy Programme. Willing millers from Cereal Millers Association and Grain Mill Owners Association were requested to express their interest by submitting their particulars. The millers who met the requirements entered into an agreement with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

45. **How the contracts were awarded to the identified millers and the requisite safeguards:** The contracts were awarded to millers who met the set conditions for the supply of subsidized maize flour.

A multi-sectoral committee comprising of representatives of the Ministry of Agriculture, Livestock, Fisheries and Cooperatives; the National Treasury and Planning, Kenya Revenue Authority, Ministry of Interior and Coordination of National Government, Cereal Millers Association and Grain Mill Owners Association was established to operationalize the Programme.

46. **The amount of maize flour that was supplied under the Programme:** The total amount of maize flour supplied by millers under the Programme was 121,714,844 Kgs.

47. **How payment was structured and who was paid what amount:** The contract provided that millers were to be paid every 5<sup>th</sup> calendar day upon submission of the relevant documents. A total of 119 millers supplied the subsidized maize flour across the country. The millers were paid KSh. 3,366,999,497 for distributing 121,714,844 Kgs of maize flour. The pending amount is KSh. 3,023,029,817.

48. **How distribution was managed:** Millers were responsible for milling and distributing subsidized maize flour. Officers were stationed at the contracted millers' premises to monitor daily activities including dispatch of the flour to retail outlets. The Ministry of Interior and Coordination of National Government and officers from KRA had the responsibility of ensuring delivery of the flour to the last mile.

### **3.4 THE NATIONAL TREASURY AND ECONOMIC PLANNING**

49. In a letter, Ref: AG/3/037 Vol. V/(38) dated 26<sup>th</sup> April 2023, the National Treasury stated that all the activities pertaining to the Maize Flour Subsidy Programme were overlooked by the State Department for Crop Development and Agricultural Research. The only role played by the National Treasury was to grant approval under Article 223 of the Constitution for additional budget of KSh. 4 billion to the State Department of Crop Development and Agricultural Research out of a request of KSh. 9.12 billion. The KSh. 4 billion was to cater for part payment of the monies owed to millers under the Maize Flour Subsidy Programme.
50. Authority to withdraw the money from the Consolidated Fund was sought from the Controller of Budget as required by Section 17(4) and (5) of the Public Finance Management Act, 2012 and the funds were released to the State Department in two batches: KSh. 2 billion on 28<sup>th</sup> July 2022; and KSh. 2 billion on 4<sup>th</sup> August 2022.

### **3.5 OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE**

51. In a letter, Ref. AG/CONF/6/B/18/1 dated 16<sup>th</sup> May 2023, the Office of the Attorney General informed the Committee that the Ministry of Agriculture, Livestock, Fisheries and Cooperatives wrote to the Office requesting for a review of the draft contract that would be signed between the Ministry and individual millers for the Maize Flour Subsidy Programme.
52. The Office issued comments after reviewing the draft contract and requested the Ministry to note and furnish the Office with copies of the signed contracts for their information and records but the letter was not responded to.
53. Further, the Ministry of Agriculture, Livestock, Fisheries and Cooperatives sought the Office's advice relating to the suspension of the Maize Flour Subsidy Programme. The Office responded that:
  - i. Article 7.2 of the contract provides that the duration of the contracts shall be an initial period of four weeks from the date of commencement and may be extended by mutual consent of the parties. There is no provision for suspension of the contracts.
  - ii. Article 14.2 of the contract provides that the Ministry may terminate the contract immediately should it be ascertained that the concerned miller has supplied sifted maize flour that does not conform to the standards set by KEBS. There is no provision under Article 14 for termination on the basis of inadequate exchequer releases from the National Treasury.
  - iii. Article 4.3 states that the contracts are contingent on the creation and funding of the Maize Flour Subsidy Account. In view of this, the Office guided that non-provision of funding for the Programme during the contract period may form a merited basis for legal action for breach of the contract in relation to the outstanding invoices. As at close of business on 12<sup>th</sup> August 2022, the State Department had received invoices worth KSh. 2.98 billion out of which KSh. 1.62 billion had been paid to the millers. The State Department is under contractual duty to pay the outstanding invoices.



- iv. Article 14.4 of the contract provides that the millers concerned will be entitled, in addition to terminating the contracts, to general and liquidated damages and interest on the delayed payments (at the government rate of interest on a pro rata basis accruing from the first date of default). The award of the general and liquidated damages and the attendant interest will be dependent on the proof of loss that the millers will demonstrate in legal proceedings.
- v. In view of the foregoing, the Office advised that if the Ministry is unable to continue with the contracts on account of insufficient budget, the outstanding invoices should be paid as they are already a contractual liability. The Ministry may thereafter engage the millers with a view of amicably terminating the contracts for the remainder of the contractual period to avert the risk of litigation that may result in general and liquidated damages against the Ministry.

## PART FOUR

### 4 ISSUES FOR DETERMINATION/OBSERVATIONS

The issues for determination are as per the terms of reference of the inquiry as set by the Committee under paragraph 29 of this report. Based on evidence gathered from stakeholders' submissions, the Committee determined the issues as follows:

#### 4.1 TO FIND OUT WHETHER THE PROGRAMME ACHIEVED ITS OBJECTIVE

54. From the CMA's submission, the Committee established that the millers manufactured the white sifted maize flour and supplied it to wholesalers who supplied it to the value chains. It was however not their responsibility to find out where the flour was sold and if it got to the consumers at the required retail price of KSh. 100.
55. On their part, GMOA stated that most of their members are small millers that operate in estates and areas close to residential houses. Due to this, the flour was bought by neighbouring families and most of it was therefore not distributed through the value chains.
56. A multi-agency team comprising of various government agencies was put in place to oversee the Programme in all stages. However, the team did not provide a report on the areas of coverage of the subsidised maize flour.
57. Sifted maize flour under the Programme was not stamped '*SUBSIDY*' and this may have reduced the success levels of the Programme because the flour could have been hoarded by unscrupulous value chain players and sold at higher profits at the end of the Programme.
58. From the above information, the Committee noted that the Programme may not have achieved its intended objective of supplying sifted white maize flour to citizens in all parts of the country at the price of KSh. 100.

#### 4.2 TO ESTABLISH WHETHER THE IDENTIFICATION PROCESS FOR THE MILLERS WAS FREE AND FAIR

59. CMA, GMOA and the Ministry of Agriculture and Livestock Development informed the Committee that the Programme was open to all millers that are members of the two Associations that were willing to participate in it. Contracts were signed between the millers and the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.
60. GMOA informed the Committee that members of its Association signed the contracts for supply of sifted maize flour a day after their counterparts in the Cereal Millers' Association. Scrutiny of the contracts however showed that millers from both Associations begun signing the contracts on 20<sup>th</sup> July 2022.
61. The contract submitted by the Ministry in their presentation was different from the contract signed by the millers. The contract submitted by the Ministry was similar to that presented to the Committee by the Grain Mill Owners' Association while the contract signed by all millers was similar to the one presented to the Committee by the Office of the Attorney General and the Cereal Millers Association.

62. From the foregoing, the Committee observed that the process of identification of the millers was free and fair.

#### **4.3 TO FIND OUT IF THERE WAS VALUE FOR MONEY IN THE EXECUTION OF THE PROGRAMME**

63. The figures of maize supplied in the Programme provided by the Ministry of Agriculture and Livestock Development, the Cereal Millers' Association and the Grain Mill Owners' Association were all different.

64. In the Ministry's records, KSh. 3.5 billion was paid to maize millers under Article 223 of the Constitution for the Programme. In the meetings, CMA submitted that they had been paid KSh. 1,905,845,377.07 while GMOA stated that they were paid KSh. 841,784,292.89 which makes a total of KSh. 2,747,629,669.96.

65. Of the KSh. 4 billion that was paid to maize millers, KSh. 500 million was paid to CMA to cater for the interest accrued from the debt owed to millers for the Maize Flour Subsidy Programme of FY 2017/18. Neither the Ministry nor CMA provided a proper explanation on how the money was distributed to the millers. Despite undertaking to submit documentation on the same, none has been received by the Committee so far.

66. The amount of money owed to CMA submitted to the Committee was different from the amount of money that they were demanding the Ministry to pay as seen from the letter that was attached to their presentation. CMA explained that the figure submitted to the Committee had gone up because two other millers joined the Programme later. They however did not submit details of the two millers.

67. During consideration of the Supplementary Estimates No. 1 for FY 2022/23, the Committee established that the total amount spent on the Maize Flour Subsidy Programme was KSh. 7.267 billion, however, CMA informed the Committee that the total amount for the Programme was KSh. 6.6 billion while GMOA stated that the total amount for the Programme was KSh. 6.4 billion.

68. There was discrepancy in the amount submitted in the Ministry's submission and that presented during the Supplementary Estimates No. 1 for FY 2022/23. The Ministry explained that the figure of KSh. 3.267 billion submitted in the Supplementary Estimates had been arrived at before reconciliations were done. The figure was mainly because of repeated invoices hence the new figure of KSh. 3.023 billion.

69. Consequently, the Committee established that the presentation made by GMOA was genuine and had no underlying issues hence value for money. The presentation by CMA had a number of underlying issues and therefore no value for money on their part.

#### **4.4 FURTHER OBSERVATION**

70. There are a number of issues that need to be interrogated on the part of CMA like details of millers that were paid the KSh. 500 million on account of interest accrued on the Maize Flour Subsidy Programme for FY 2017/18 and how the money was paid to them; the total amount of money owed to the CMA; and Members of CMA that supplied the maize flour. The Committee will conduct further investigations and table a report with recommendations on the way forward.


## PART FIVE

### 5 COMMITTEE RECOMMENDATIONS

The Committee made the following recommendations on the inquiry into the Maize Flour Subsidy Programme for FY 2022/23:

1. The KSh. 500 million owed to members of the Grain Mill Owners' Association should be factored in the Budget Estimates for FY 2023/24 and paid because their computations were clear, the membership of the Association that participated in the Programme was static and they did not participate in the Maize Flour Subsidy Programme for FY 2017/18.
2. The KSh. 841,784,292.89 that was paid to GMOA under Article 223 of the Constitution be regularised because the Committee established that there was value for money on the Association's part.
3. The Ministry of Agriculture and Livestock Development should come up with a policy on how to engage in future subsidy programmes within three months of adoption of this report and submit a copy of the same to the Committee.

SIGNED.....



DATE.....

6/6/2023

HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

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