

Approved for tabling.

REPUBLIC OF KENYA



Pat
SNA
17/10/19

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT - THIRD SESSION

.....

**FIFTH REPORT OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE ON
THE AUDITED FINANCIAL STATEMENTS
FOR
AGRICULTURAL SETTLEMENT FUND TRUSTEES, UNIVERSAL SERVICE
FUND AND WATER SECTOR TRUST FUND**

OCTOBER, 2019

Directorate of Committee Services
The National Assembly
Parliament of Kenya
NAIROBI

TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS.....	3
ANNEXURES.....	4
CHAIRPERSON’S FOREWORD.....	5
ADOPTION LIST	7
CHAPTER ONE.....	9
1. PREFACE.....	9
1.1. ESTABLISHMENT OF THE COMMITTEE.....	9
1.2. MANDATE OF THE COMMITTEE	9
1.3. GUIDING PRINCIPLES.....	9
1.4. COMMITTEE MEMBERSHIP	11
1.5. SECRETARIAT	2
CHAPTER TWO	3
2. BACKGROUND	3
2.2 AGRICULTURAL SETTLEMENT FUND TRUSTEES (ASFT).....	3
2.3 UNIVERSAL SERVICE FUND	4
2.4 WATER SECTOR TRUST FUND	5
CHAPTER THREE	7
3. CONSIDERATION OF THE REPORT OF AUDITOR-GENERAL ON AUDITED FINANCIAL STATEMENTS FOR AGRICULTURAL SETTLEMENT FUND TRUSTEES FOR THE YEAR ENDED 30TH JUNE, 2016.....	7
3.1. AUDIT QUERY NO. 1: PROPERTY, PLANT AND EQUIPMENT	7
3.2. AUDIT QUERY NO. 2. CURRENT ASSETS.....	11
3.3. AUDIT QUERY NO. 3. TRADE AND OTHER PAYABLES FROM EXCHANGE TRANSACTIONS	14
3.4. AUDIT QUERY NO. 4. BUDGETARY CONTROL	15
3.5. GENERAL OBSERVATIONS AND RECOMMENDATIONS	17
CHAPTER FOUR.....	19
4. CONSIDERATION OF THE REPORT OF THE AUDITOR-GENERAL ON AUDITED FINANCIAL STATEMENTS OF THE UNIVERSAL SERVICE FUND FOR THE YEAR ENDED 30TH JUNE, 2017	19
4.1. AUDIT QUERY NO. 1 CASH AND CASH EQUIVALENT.....	19
4.2. GENERAL OBSERVATIONS AND RECOMMENDATIONS	22
CHAPTER FIVE.....	23
5. CONSIDERATION OF THE REPORT OF THE AUDITOR-GENERAL ON AUDITED FINANCIAL STATEMENTS OF THE WATER SECTOR TRUST FUND FOR THE YEAR ENDED 30TH JUNE, 2017	23
5.1. AUDIT QUERY NO. 1 QUESTIONABLE COSTS	23

LIST OF ABBREVIATIONS AND ACRONYMS

EACC	Ethics and Anti-Corruption Commission
COK	Constitution of Kenya
ICT	Information and Communication Technology
MP	Member of Parliament
FY	Financial Year
DCI	Directorate of Criminal Investigations
USF	Universal Service Fund

ANNEXURES

Annexure 1

Minutes of the Committee

CHAIRPERSON'S FOREWORD

Article 95 (4) (c) of the Constitution of Kenya gives the National Assembly power to oversight over national revenue and its expenditure. In fulfillment of these constitutional provisions, the National Assembly Standing Orders has established Committees whose mandate is to examine reports of the Auditor-General to ascertain whether public funds have been utilized in a lawful, authorized, effective, efficient, economical and transparent manner.

This report contains the Committee's proceedings of its consideration of the Reports of the Auditor General on financial statements for Agricultural Settlement Fund Trustees, Universal Service Fund and Water Sector Trust Fund pursuant to provisions of Standing Order No. 205A (e) of the National Assembly Standing Orders.

The Agricultural Settlement Fund Trustees, Universal Service Fund and Water Sector Trust Fund are established under various Acts of Parliament and have specific mandates geared towards improving the lives of the Kenyan people. The Agricultural Settlement Fund Trustees was established in 1963 was meant for agricultural development and purchase of land. However, its current mandate is limited to purchasing land for Internally Displace Persons (IDPs) and squatters with a running loan set to expire in the year 2022.

The Universal Service Fund on the other hand is mandated to ensure widespread access to Information and Communication Technologies (ICT) and to support capacity building and to promote innovation in Information and Communication Technologies.

Finally, the Water Sector Trust Fund is mandated to provide conditional and unconditional grants to Counties, in addition to the Equalization Fund and to assist in financing the development and management of water services in marginalized areas or any area which is considered by the Board of Trustees to be underserved.

Based on the important role that the Funds play towards national development, there is need for proper utilization and accountability of public resources invested towards realization of mandates of these institutions. It is on this basis that the Committee invited accounting officers of the Funds to respond to the audit queries raised in the report of the Auditor General. Arising from

the evidence adduced, the Committee was able to come up with various recommendations for consideration by the House.

The Committee held a total of sixteen meetings where it received submissions from the accounting officers of these Funds on various issues raised in their Audit Reports. In addition, the Committee also undertook field visits to establish the farms purchased for resettlement of IDPs in Nakuru and Trans Nzoia Counties. The submissions received formed the basis of observations, findings and recommendations of the Committee as outlined in this report under each of the audit queries. These can also be obtained from the Minutes of the Committee and Hansard Reports of Committee proceedings.

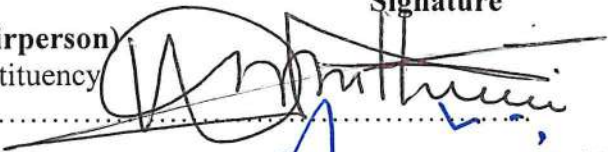



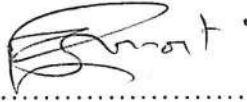
The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Audited accounts of the aforementioned Funds. Finally, I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.


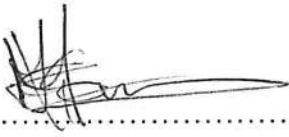

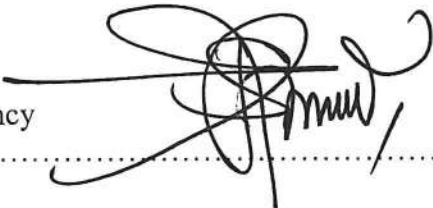
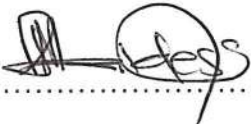
On behalf of the Special Funds Accounts Committee and pursuant to provisions of Standing Orders 199 (6), it is my pleasant privilege and honor to present to the House the report of the Committee on its consideration of the Reports of the Auditor General on financial statements for the Agricultural Settlement Fund Trustees, the Universal Service Fund and the Water Sector Trust Fund.

HON. KATHURI MURUNGI, M.P.
CHAIRPERSON, SPECIAL FUNDS ACCOUNTS COMMITTEE

ADOPTION LIST

Pursuant to Standing Order 199, we the undersigned Members of the Special Funds Accounts Committee of the National Assembly do hereby append our signatures to adopt this Report.

- | | Signature |
|---|---|
| 1. Hon. Kathuri Murungi, M.P. (Chairperson)
Member of Parliament for South Imenti Constituency
Independent Member |  |
| 2. Hon. William Kamuren Chepkut, M.P. (Vice-Chairperson)
Member of Parliament for Ainabkoi Constituency
Independent Member..... |  |
| 3. Hon. Alfred Agoi Masadia, M.P
Member of Parliament for Sabatia Constituency
Amani National Congress Party..... |  |
| 4. Hon. Dennitah Ghati, HSC, M.P
Nominated Member (Representing Persons with Disabilities)
Orange Democratic Movement Party | |
| 5. Hon. Mark Lomunokol, M.P
Member of Parliament for Kacheliba Constituency
Party of Development and Reforms..... | |
| 6. Hon. Shakeel Shabbir, CBS, M.P
Member of Parliament for Kisumu Town East Constituency
Independent Member..... | |
| 7. Hon. Erastus Kivasu Nzioka, M.P
Member of Parliament for Mbooni Constituency
New Democrats Party..... |  |
| 8. Hon. Esther Muthoni Passaris, OGW, M.P
Member of Parliament for Nairobi City County
Orange Democratic Movement Party..... |  |
| 9. Hon. Geoffrey Omuse, M.P.
Member of Parliament for Teso South Constituency
Orange Democratic Movement Party..... |  |

10. Hon. Dr. Irene Muthoni Kasalu, M.P
 Member of Parliament for Kitui County
 Wiper Democratic Party 
11. Hon. James Kamau Wamacukuru, M.P
 Member of Parliament for Kabete Constituency
 Jubilee Party 
12. Hon. Jared Okelo, M.P
 Member of Parliament for Nyando Constituency
 Orange Democratic Movement Party
13. Hon. Justus Gisito Mugali, M.P.
 Member of Parliament for Shinyalu Constituency
 Orange Democratic Movement Party
14. Hon. Marwa Maisori Kitayama, M.P
 Member of Parliament for Kuria East
 Jubilee Party..... 
15. Hon. Mohamed M. Ali, M.P.
 Member of Parliament of Nyali Constituency
 Orange Democratic Movement Party.....
16. Hon. Mwambu M. Mabongah, M.P.
 Member of Parliament for Bumula Constituency
 Independent Member..... 
17. Hon. Rehema Dida Jaldesa, M.P
 Member of Parliament for Isiolo County
 Jubilee Party 
18. Hon. Mohamed Ali Lokiru, M.P
 Member of Parliament for Turkana East Constituency
 Orange Democratic Movement Party
19. Hon. Abdi Koropu Tepo, M.P
 Member of Parliament for Isiolo South Constituency
 Kenya Patriots Party

CHAPTER ONE

1. PREFACE

1.1. Establishment of the Committee

1. The Special Funds Accounts Committee is amongst the three watchdog Committees of the Twelfth Parliament that examine reports of the Auditor-General to ascertain whether public funds have been utilized in a lawful, authorized, effective, efficient, economical and transparent manner. The Committee was established in the fifth session of the Eleventh Parliament following the review of the National Assembly's Standing Orders to enhance the examination of reports of the Auditor-General laid before the House.

1.2. Mandate of the Committee

2. The Committee's mandate is contained in the National Assembly's Standing Order 205A to examine the audited accounts laid before the House of:
 - (i) the Equalization Fund;
 - (ii) the Political Parties Fund;
 - (iii) the Judiciary Fund;
 - (iv) the National Government Constituencies Development Fund; and
 - (v) any other Fund established by law as the Speaker may direct.

1.3. Guiding Principles

3. In execution of its mandate, the Committee was guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions and practices. These principles include:

1.3.1. Constitutional Principles on Public Finance

4. Article 201 of the Constitution of Kenya 2010 (CoK, 2010) provides for the fundamental principles that guide all aspects of public finance. These principles are, *inter alia*:-
 - (i) Article 201(a) states that there shall be openness and accountability, including public participation in financial matters;
 - (ii) Article 201(d) states that public money shall be used in a prudent and responsible way; and
 - (iii) Article 201(e) requires that financial management shall be responsible, and fiscal reporting shall be clear.

1.3.2. Direct Personal Liability

5. Article 226(5) of the Constitution of Kenya, 2010 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”*.

1.3.3. Obligations of Accounting Officers

6. 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.”*

7. The Committee relied on these constitutional and legal provisions as the basis for inviting accounting officers for each of the Funds to respond to queries raised in the report of the Auditor-General. This is in addition to holding them directly and personally liable for any loss of public funds under their trust. The Committee has and will continue to invoke these provisions in its recommendations to ensure that public resources channeled to these public bodies in furtherance of their mandates is utilized for the benefits of Kenyans.

1.4. Committee Membership

Chairperson

Hon. Kathuri Murungi, M.P.
Member for South Imenti Constituency

Independent Member

Vice-chairperson

Hon. William Kamuren Chepkut, M.P.
Member for Ainabkoi Constituency

Independent Member

Members

Hon. Alfred Agoi Masadia, M.P.
Member for Sabatia Constituency
Amani National Congress Party

Hon. Dennitah Ghati, HSC, M.P.
Nominated Member (representing
Persons with Disabilities)
Orange Democratic Movement Party

Hon. Mark Lomunokol, M.P.
Member for Kacheliba Constituency
Party of Development and Reforms

Hon. Shakeel Shabbir, CBS, M.P.
Member for Kisumu Town East
Constituency
Independent Member

Hon. Erastus Kivasu Nzioka, M.P.
Member for Mbooni Constituency
New Democrats Party

Hon. Esther Muthoni Passaris, M.P.
Member for Nairobi County
Orange Democratic Movement Party

Hon. Geoffrey Omuse, M.P.
Member for Teso South Constituency
Orange Democratic Movement Party

Hon. Irene Muthoni Kasalu, M.P.
Member for Kitui County
Wiper Democratic Party
Hon. James Kamau Wamacukuru, M.P.
Member for Kabete Constituency
Jubilee Party

Hon. Jared Okelo, M.P.
Member for Nyando Constituency
Orange Democratic Movement Party

Hon. Justus Gisito Mugali, M.P.
Member for Shinyalu Constituency
Orange Democratic Movement Party

Hon. Marwa Maisori Kitayama, M.P.
Member of Parliament for Kuria East
Jubilee Party

Hon. Mohamed Mohamed Ali, M.P.
Member for Nyali Constituency
Orange Democratic Movement Party

Hon. Mwambu M. Mabongah, M.P.
Member for Bumula Constituency
Independent Member

Hon. Rehema Jaldesa, MP
Member for Isiolo County
Jubilee Party

Hon. Mohamed Ali Lokiru, M.P
Member for Turkana East Constituency
Orange Democratic Movement Party

Hon. Abdi KoropuTepo, M.P
Member for Isiolo South Constituency
Kenya Patriots Party

1.5. Secretariat

Ms. Lucy Kimathi
Principal Clerk Assistant II

Ms. Hellen Ekadeli
Clerk Assistant II

Ms. Clarah Kimeli
Senior Legal Counsel

Mr. Josphat Bundotich
Senior Serjeant- at- Arms

Ms. Clare Jerotich Kidombo
Research Officer I

Ms. Catherine Burure
Fiscal Analyst III

Ms. Deborah Mupusi
Media Relations Officer II

Ms. Naserian Kaare
Serjeant-at- Arms III

Ms. Fatuma Abdi
Audio Officer II

CHAPTER TWO

2. BACKGROUND

2.1 LEGAL FRAMEWORK

8. Article 95 (4) (c) of the Constitution of Kenya, 2010 provides that *the National Assembly - exercises oversight over national revenue and its expenditure*. In addition, Article 229(8) also provides that, “*within three months after receiving an audit report, Parliament ... shall debate and consider the report and take appropriate action*”.
9. Further, Section 68(1) of the Public Finance Management Act, 2012 provides that, “*an accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary shall be accountable to the National Assembly*”
10. The Special Funds Accounts Committee is amongst the three Watchdog Committees of the 12th Parliament established to assist the National Assembly undertake its constitutional oversight mandate geared towards enhanced accountability in application of public funds.
11. This report covers the Committee’s consideration of the reports of the Auditor-General on audited financial statements of the Agricultural Settlement Fund Trustees, the Universal Service Fund and the Water Sector Trust Fund under various financial years.

2.2 AGRICULTURAL SETTLEMENT FUND TRUSTEES (ASFT)

12. The Agricultural Settlement Fund Trustees was established under the Agriculture Act (Cap 318 of the Laws of Kenya) Section 168, which was repealed by the Agriculture Fisheries and Food Authority Act, 2013. The Fund is managed by the Ministry of Lands and Physical Planning. Its mandate is vested in the Settlement Fund Trustees jointly run by the Ministries of Lands, National Treasury, Interior and Agriculture.
13. The Fund which was established in 1963 was meant for agricultural development and purchase of land. However, its current mandate is limited to purchasing land for squatters with a running loan set to expire in 2022.

14. The Fund's financial statements were prepared until 1994/1995 financial year when the mainframe computer used for billing and accounting for the Fund allegedly crashed. As a result, financial statements for the fund were not prepared between 1995 and 2007. Upon resumption of preparation of financial statements in 2007/2008, the fund took block figures from the financial statements of 1994/1995 which have been used as block opening balances without supporting analysis schedules.
15. The block figures have been in the books of accounts ever since and have continued to be subject to audit queries which are carried forward in the subsequent years due to lack of supporting documents. The Fund is currently administered by the Ministry of Lands and Physical Planning, with the Principal Secretary as the Accounting Officer.

2.3 UNIVERSAL SERVICE FUND

16. The Universal Service Fund (USF) was established in 2009 through an amendment to Section 84J of the Kenya Information and Communications Act, (Cap 411A of the Laws of Kenya (revised 2009)). The objective of the Fund is to ensure widespread access to, support capacity building and to promote innovation in Information and Communication Technologies.
17. The Fund is financed by statutory contributions from licensed operators who provide services in the various communications market segments, with provisions for complementary financing from other sources. The Communications Authority of Kenya (CAK) is mandated to manage and administer the Universal Service Fund while oversight is by the Universal Service Advisory Council, appointed by the Government.
18. The Fund was operationalized under Regulation 3(2) of the Information and Communications (Universal Access and Service) of 2010. The specific objectives of the Universal Service Fund includes-
- (a) To encourage efficient access to and use of communications systems and services throughout the Republic of Kenya, focusing on rural, remote and under-served areas in order to promote social and economic development;

- (b) To ensure reasonable availability and affordability of basic and advanced communications systems and services to persons with disabilities, at the household and individual levels, particularly where the market is unable to deliver such services in a financially viable manner;
- (c) To support the development of information and communication technologies, including related human capacity and technological innovation;
- (d) To provide support for the introduction and expansion of communication services to schools, health facilities and other organizations serving public needs; and
- (e) To facilitate development of and access to a wide range of local and relevant content.

19. Resources of the Fund may be applied in activities that support national communications development programs, *inter alia*:

- (a) Funding universal service programs and projects;
- (b) Identifying, approving, scheduling and financing private sector and local community investments in universal service provision projects; and
- (c) The conduct of research and other relevant studies in information technologies.

2.4 WATER SECTOR TRUST FUND

20. The Water Sector Trust Fund is established under the Water Act, 2002 (repealed) and mandated to finance provision of water services to various parts of Kenya that have inadequate water services in order to improve the Water Resources management.

21. The Fund was re-established under Section 113 of the Water Act (Act No.43 of 2016) which establishes Board of Trustees with the Chief Executive Officer as the Accounting Officer of the Fund.

22. The object of the Fund is to provide conditional and unconditional grants to counties, in addition to the Equalization Fund and to assist in financing the development and management of water services in marginalized areas or any area which is considered by the Board of Trustees to be underserved including:

- (a) community level initiatives for the sustainable management of water resources;
- (b) development of water services in rural areas considered not to be commercially unviable for provision of water services by licensees;

- (c) development of water services in the underserved poor urban areas; and
- (d) research activities in the area of water resources management and water services, sewerage and sanitation.

23. The Fund is financed by the Government of Kenya, bilateral and multilateral organizations, the private sector, foundations, individuals and donors. It works together with the Water Resources Management Authority (WRMA), Water Service Boards (WSBs), Community Based organizations (CBOs) and Water Resource Users Associations (WRUAs) to support the poor disadvantaged communities in articulating their priority needs and preparing proposals for their own grants.

CHAPTER THREE

3. CONSIDERATION OF THE REPORT OF AUDITOR-GENERAL ON AUDITED FINANCIAL STATEMENTS FOR AGRICULTURAL SETTLEMENT FUND TRUSTEES FOR THE YEAR ENDED 30TH JUNE, 2016

24. The Committee invited the Accounting Officer of the Fund, the Principal Secretary, Ministry of Lands and Physical Planning on 10th April, 2018 to respond to audit queries in the report. During the meeting, Ms. Farida Karoney, the Cabinet Secretary, requested for an extension of time to prepare, submit and respond to audit queries stating that the Ministry was in the process of reconstructing financial statements of the Fund from the physical records owing to the fact that previous records were lost when the main frame computer crashed. The Committee acceded to the request for additional time of six months to prepare accurate financial statements that would enable the accounting officer prepare responses to the audit queries raised in the report of the Auditor-General.
25. Subsequently, Dr. Nicholas Muraguri, the accounting officer of Agricultural Settlement Fund Trustees appeared before the Committee on 18th June, 2019 to respond to audit queries. He was accompanied by:
- (i) Mr. P. K. Mwangi, Director, Land Adjudication & Settlement;
 - (ii) Mr. David Kiotho, Senior Accountant; and
 - (iii) Mr. Ndun'gu Kiarie, Principal Finance Officer.

3.1. AUDIT QUERY NO. 1: PROPERTY, PLANT AND EQUIPMENT

26. The Funds statement of financial position as at 30th June, 2016 reflected a balance of Ksh. 7,432,878,660 for non-current assets. However, schedules for land and buildings and fixed and loose assets amounting to Ksh. 6,176, 800,380 and Ksh. 38,680,431 respectively were not availed for audit review. Further, the Fund did not maintain a fixed/non-current assets register during the year under review thereby making it difficult to determine whether all the non-current assets were accounted for.

27. In the circumstance, it has not been possible to confirm whether the balance for property, plant and equipment of Ksh. 7,432,878,660 included in the statement of financial position as at 30th June, 2016 is fairly stated.

Management Response

28. Dr. Nicholas Muraguri, the accounting officer submitted that the Fund's Statement as at 30th June, 2016 reflected a balance of Ksh. 6,176,800,380 for non-current assets whose supporting schedules were not availed. The amount related to land purchases made to settle Internally Displaced Persons (IDPs) totaling Ksh. 4,076,800,380 and cash payment made to the Ministry of Special Programs of Ksh. 2,100,000,000 as per provided supporting documents.

29. The amount was erroneously reflected under assets yet the Fund had no such land holding. Internally Displaced Persons (IDP) lands were issued free of charge hence this amount should have been expensed in the year under review to reflect a NIL balance.

30. He further submitted that the Fund was not able to establish what the amount of Ksh. 38,680,431 related to even after undertaking an accounts reconstruction exercise. There were no documents seen which could relate to the said amount, hence, they were unable to analyze the figure. The Fund did not have any other form of asset as at 30th June, 2016 since all assets in use by the Fund belonged to and were maintained by the Ministry of Lands and Physical Planning. Hence the reason the Fund did not maintain a fixed/non-current asset register at the time.

Committee field visits to farms purchased to settle IDPs

31. Following on the submission by the accounting officer, the Committee at its meeting held on 12th September, 2019 resolved to undertake field visit in some farms in the counties of Nakuru and Trans Nzoia to ascertain the beneficiaries of land in question.

32. The objectives of the visits which were undertaken on 27th September 2019 by two sub-Committees were:

- ✓ To conduct a physical verification of the information supplied by the accounting officer pertaining the size and ownership of land purchased under the IDP programme; and
- ✓ To ascertain the actual beneficiaries settled in the land purchased under farms.

33. In Trans Nzoia County, the sub-Committee visited the following four farms located in in Bonde Village, Suwerwa Location, Cherangani Constituency, Trans Nzoia East Sub-County;

- ✓ 116.13 Acres of land LR No. Trans Nzoai/Cherangani/211 purchased on 25-07-2012 for Ksh. 23,225,000.00;
- ✓ 55 acres of Land LR No. Trans Nzoia/Cherangani/213 purchased on 04-06-2012 for Ksh. 12,375,000.00;
- ✓ 43.23 acres of Land LR No. Trans Nzoia/Cherangani/18 purchased on 18-04-2012 for Ksh. 19,712,500.00;
- ✓ 138.9 acres of Land LR No. Trans Nzoia/Cherangani/219 purchased on 24-08-2012 for Ksh. 25,000,000.00

34. In Nakuru County, the sub-Committee visited the following farms located in Rongai and Kisima areas:

- ✓ 2100.5 acres of land No. 10939/4 purchased at a cost of Ksh. 294,070,000.00 on 2012-10-08 and registered under LOMOLO (1962) LIMITED;
- ✓ 1172 acres of land No. 11673RONGAI/NAKURU purchased at a cost of Ksh. 303,225,000.00 on 2012-06-22 and registered under GIWA ESTATES LIMITED;
- ✓ 1172 acres of land No. 11673RONGAI purchased at a cost of Ksh. 33,695,000.00 on 2012-06-04 and registered under GIWA ESTATES Ltd ; and
- ✓ 1112 acres of land No. 9216 Kisima Farm purchased at a cost of Ksh. 396,984,000.00 on 2012-10-05 and registered under NYOIKE NJENGA HINGA.

Committee Observations

35. The Committee made the following observations and findings from the response given by the accounting officer-

- (i) The schedules for Land and Buildings and fixed assets amounting to Ksh. 4,076,800,380 had been forwarded for verification as confirmed by the Auditor-General, and the audit query on the figure resolved;
- (ii) The supporting documents for the amount of Ksh. 38,680,431 under the query could be not availed for audit review. This contravened the provisions of Section 68 (2) (b) and (c) of the Public Finance Management Act (No. 18 of 2012) and Section 62 of the Public Audit Act (No.34 of 2015). Section 68 (2) (b) of the PFM Act, 2012 that requires entities to keep financial and accounting records that comply with the PFM Act, 2012;

- (iii) The accounting failed to comply with Section 68 (2) (c) of PFM Act, 2012 which requires that financial and accounting records be kept in any form including the electronic form and be protected and backed up;
- (iv) The accounting officer also failed to comply with Section 62 of the Public Audit Act, 2015 which requires entities to provide all information required for audit by the Auditor general at the time of audit;
- (v) The Auditor General had not undertaken physical verification of the Land that was purchased to settle Internally Displaced Persons (IDPs).
- (vi) The accounting officer failed to update the fixed /non-current asset register in contravention to the provisions of Section 81 (3) of the Public Finance Management Act (No. 18 of 2012) which provides that the accounting officers of all entities shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time

36. From the filed visits in the two counties, the Committee made the following findings;

- (i) Subdivision of the land in Kisima Farm Nakuru County and Bonde Farm in Trans Nzoia County was yet to be concluded despite the Presidential Directive of September 25th 2009;
- (ii) Failure by Ministry of Lands and Physical Planning to conclude surveying and subdivision of purchased land and issuance of the title deeds had led to IDPs being settled in make shift structures, living in deplorable conditions where basic sanitation amenities were lacking;
- (iii) The Ministry of Land and Physical Planning had not prioritized resettlement of the IDPS since the year 2012 when the land was purchased;
- (iv) The process of IDPs resettlement was not planned well given the period it had taken for the process to be completed.

Committee Recommendations

37. The Committee having considered the audit query recommends that-

- (i) **The accounting officer seeks approval of Cabinet Secretary, the National Treasury to write off the unaccounted balances in accordance to Section 69 of the Public Finance Management Act (No. 18 of 2012); which provides that an**

accounting officer or a national government entity may write off any loss not exceeding a prescribed amount.

- (ii) The accounting officer takes appropriate measures to resolve the outstanding audit issue in accordance with Section 68 (2) (1) of the Public Finance Management Act (No. 18 of 2012) and Section 62 of the Public Audit Act (No.34 of 2015);
- (iii) The Auditor General undertakes inspection of the land purchased at Ksh. 4,076,800,380 to settle Internally Displaced Persons and verify an amount of Ksh. 2,100,000,000 transferred to the Ministry of Special Programs and report in the next audit review;
- (iv) The accounting officer maintains a fixed/non-current register in accordance to Section 81(3) of the Public Finance Management Act (No. 18 of 2012);
- (v) The Principal Secretary, Ministry of Lands and Physical Planning ensures that land purchased for IDPs settlement programme is surveyed and subdivided within three (3) months of adoption of this report by the House;
- (vi) The Principal Secretary, Ministry of Lands and Physical Planning ensures issuance of titles to beneficiaries of land purchased under IDPs settlement programme within six (6) months of adoption of this report by the House; and
- (vii) The Auditor General undertakes a special audit on the land purchased under IDPs by the Agriculture Settlement Fund Trustees and report to the National Assembly within three (3) months of adoption of this report by the House.

3.2. AUDIT QUERY NO. 2. CURRENT ASSETS

3.2.1. Receivables from Non-Exchange Transactions

38. The financial statement reflects receivables from non-exchange transactions balance of Ksh. 784,313,839. The balance was arrived at after setting off total credit balances of Ksh. 2,870,507,100.00. However, no supporting schedules were availed for audit review in support of these credit balances as was the case in the previous year.

Management Response

39. The accounting officer submitted that the figure for current assets included receivables from non-exchange transactions amounting to Ksh. 784,313,839 and that the figure includes credit balances amounting to Ksh. 2,870,597,100.00 as follows;

Item	Amount Ksh. (Cr.)
Land Loan Principal billed	600,434,618
Development Loan Principal billed	189,092,224
Rescue Loans Principal billed	240,198
Cane development costs suspense	5,139,967
Loan repayment collection	<u>2,075,690,093</u>
	<u>2,870,597,100</u>

40. He further submitted that the reconstruction exercise undertaken by the Fund was not able to relate any of these figures as described. The origin and composition of the figures could not be ascertained, hence, the figures could not be analyzed.

Committee Observation

41. The Committee observed that-

- (i) Supporting documents for credit balances of Ksh. 2,870,507,100 were not availed during the audit review in violation of section 62 (1) (c) of the Public Audit Act No. 34 of 2015; which compels the accounting officers to avail information to auditors at the time of audit.
- (ii) The Auditor General confirmed that the Ministry was in agreement that the figures could not be analyzed hence the audit query remains unresolved.

Committee Recommendations

42. The Committee having considered the audit query recommends that the Accounting officer -

- (i) Ensures compliance with the provisions of Section 62 of the Public Audit Act (No.34 of 2015) which requires that the accounting officer shall provide information as required by the auditors at the time of the audit.
- (ii) Prepares financial statements of the Fund as per the available accounting records and submit this to the Auditor General for review within three months of adoption of this report by the House ; and
- (iii) Takes appropriate measures to resolve the outstanding audit issue in accordance with Section 53(1) (a) of the Public Audit Act (No.34 of 2015) which compels accounting

officers to consider and make recommendations on the audit report and take the relevant steps to implement the recommendations of Parliament on the report of the Auditor General.

3.2.2. Unsupported Debit Balances

43. As reported in the previous year, the statement of financial position as at 30th June, 2016 under receivables from non-exchange contracts, the current receivables reflected the following balances and which had no supporting schedules:-

<u>Item</u>	<u>Amount (Ksh.)</u>
Land Loans Issued	278,937,099
Development Loan Issued	231,832,877
Rescue Loans Issued	550,019
Other recoverable Expenses	9,820,460
Billed Amounts - Settlers	2,957,025,616
Other Debtors – Debtors General	32,352,624
Trade Investment	59,263,387
Advances	10,567,668
Suspense – Debit Items	64,507,005
Agency Accounts (Debits)	<u>257,000</u>
	<u>3,645,113,755</u>

Management Response

44. The accounting officer submitted that the following balances reflected under current account Assets had no supporting schedules hence could not be reconciled:

<u>Item</u>	<u>Amount (Ksh.)</u>
Land Loans Issued	278,937,099
Development Loan Issued	231,832,877
Rescue Loans Issued	550,019
Other recoverable Expenses	9,820,460
Billed Amounts - Settlers	2,957,025,616
Other Debtors – Debtors General	32,352,624
Trade Investment	59,263,387
Advances	10,567,668
Suspense – Debit Items	64,507,005
Agency Accounts (Debits)	<u>257,000</u>
	<u>3,645,113,755</u>

Committee Observation

45. The Committee observed that-

- (i) Supporting schedules for the balances under current assets amounting to Ksh. 3,645,113,755 were not availed during the audit review in violation of Section 62 of the Public Audit Act (No.34 of 2015);
- (ii) The audit query has not been resolved since the financial year ending June, 2007 due to lack of supporting documents.

Committee Recommendations

46. The Committee having considered the audit query recommends that-

- (i) The accounting officer reconciles the current assets and prepares financial statements of the Fund as per the available accounting records and submit to the Auditor General for review within three months of adoption of this report by the House; this is in accordance to the provisions of Section 53 (1) of the Public Audit Act, 2015.
- (ii) The accounting officer ensures compliance with the provisions of Section 62 of the Public Audit Act (No.34 of 2015) ; and
- (iii) The accounting officer takes appropriate measures to resolve the outstanding audit query in accordance with Section 53 (1) (b) of the Public Audit Act (No. 34 of 2015).

3.3. AUDIT QUERY NO. 3. TRADE AND OTHER PAYABLES FROM EXCHANGE TRANSACTIONS

47. The statement of financial position as at 30th June, 2016 under Note 12 to the financial statements reflects trade and other payables from exchange transaction with the following balances and which had no supporting schedules:-

Item	Amount (Ksh.)
Reserve for Bad debts	6,602,797
Other Creditors	3,150,139
Accrued Interest on Loans	301,500
Suspense Credit Items	122,806,862
Fund drawn from Treasury	<u>5,153,814</u>
	<u>107,598,612</u>

Management Response

48. The accounting officer submitted that Trade and Other Payables from Exchange Transactions included balances as shown below which did not have supporting schedules:

Item	Amount (Ksh.)
Reserve for Bad debts	6,602,797
Other Creditors	3,150,139
Accrued Interest on Loans	301,500
Suspense Credit Items	122,806,862
Fund drawn from Treasury	<u>5,153,814</u>
	<u>107,598,612</u>

49. He further submitted that even after reconstruction of the books of accounts, they were not able to determine the composition of these figures due to lack of supporting documents relating to the amounts indicated.

Committee Observation

50. The Committee observed that-

- (i) The accounting officer failed to provide supporting schedules for the balances of Ksh. 107,598,612 in violation of Section 62 of the Public Audit Act (No.34 of 2015); and
- (ii) The audit query remains unresolved contrary to Section 68 (2) (l) of the Public Finance Management Act, 2012.

Committee Recommendations

51. The Committee having considered the audit query recommends that the Accounting officer-

- (i) Prepares financial statements of the Fund as per the available accounting records and submit to the Auditor General for review within three months of adoption of this report by the House;
- (ii) Ensures compliance with the provisions of Section 62 of the Public Audit Act (No.34 of 2015); and
- (iii) Takes appropriate measures to resolve the outstanding audit query in accordance with Section 53 (1) of the Public Audit Act (No. 34 of 2015).

3.4. AUDIT QUERY NO. 4. BUDGETARY CONTROL

52. During the year under review, the Fund did not avail the approved budget for audit review. It was further noted that the financial statements prepared did not include the statement of comparison of budget and actual amounts as required by IPSAS 24 paragraph 14 and the government approved

template. As a result, it could not be confirmed whether the Fund operated within the approved budget.

Management Response

53. The accounting officer submitted that the Fund did not avail the approved budget for audit review and that the financial statements did not include the statement of comparison of budget and actual amounts as required by IPSAS. The approved budget and the statement of comparison of budget and actual amounts were submitted for review by the Auditor-General.

Committee Observation

54. The Committee observed that-

- (i) The financial statements submitted for audit review did not comply with the International Public Sector Accounting Standards (IPSAS) reporting requirements in contravention of section 81(3) Public Finance Management Act, 2012; and
- (ii) The approved budget and the statement of comparison of budget and actual amounts were submitted for review and the matter resolved as confirmed by the Auditor General.

Committee Recommendation

55. The Committee having considered the audit query recommends that, the accounting officer ensures compliance to section 81(3) of the Public Finance Management Act, 2012 while preparing financial statements of the Fund to ensure that the financial statements prepared comply with the relevant accounting standards in place.

3.5. GENERAL OBSERVATIONS AND RECOMMENDATIONS

3.5.1. GENERAL OBSERVATIONS

56. Arising from both oral and written submissions, the Committee made the following general observations on its consideration of the report of the Auditor General on the financial statements for Agricultural Settlement Fund Trustees for the financial year ended June, 2016, That;
- (i) The Fund was preparing Annual Reports until 1994/1995 financial year when the mainframe computer used for billing and accounting for the fund crashed;
 - (ii) Upon resumption of preparation of financial statements in 2007/2008, the Fund took block figures from the financial statements of 1994/1995 which have been used as block opening balances without supporting documents. These figures have been in the books of accounts and have continued to be subject of audit queries which are carried forward in the subsequent years due to lack of supporting documents.
 - (iii) Most documents to support amounts queried by the Auditor General in the year under review were unavailable, hence the Ministry of Lands and Physical Planning was relying on manual records to reconstruct the accounts of the Fund whose process was still on-going during the period under review;
 - (iv) The true financial position of the Fund would be ascertained once the reconstruction exercise that the Ministry was undertaking is completed;
 - (v) During the reconstruction exercise, most of the financial figures to prepare financial statements under the audit review were found to be greatly understated, hence the correct figures will be ascertained once the exercise is completed; and
 - (vi) Most of the audit queries have not been resolved owing to absence of the requisite documents to support various expenditures.

3.5.2. GENERAL RECOMMENDATIONS

57. The Committee having considered that most of the audit queries arose from lack of documents to support various expenditures recommends that;

- (i) The Directorate of Criminal Investigations investigates the operations of the Fund as to the veracity of loss of documents as alleged by the Fund; and
- (ii) The Directorate of Criminal Investigations investigates and takes action against any officer(s) managing the Fund, whether current or past, for breach of Section 68 (2) (b) and (c) of the Public Finance Management Act, 2012 which requires all financial and accounting records kept in any form to be adequately protected and backed up.

CHAPTER FOUR

4. CONSIDERATION OF THE REPORT OF THE AUDITOR-GENERAL ON AUDITED FINANCIAL STATEMENTS OF THE UNIVERSAL SERVICE FUND FOR THE YEAR ENDED 30TH JUNE, 2017

58. Mr. Francis Wangusi, the Director General of the Communications Authority of Kenya and the accounting officer of the Universal Service Fund appeared before the Committee on 4th June, 2019. He was accompanied by:

- (i) Mr. Paul Kiage, Assistant Director General;
- (ii) Mr. Dominic Ooko, Assistant Director for Revenue and Finance Department;
- (iii) Ms. Emma Otieno, Manager for Corporate Planning;
- (iv) Ms. Mercy Wanjau, Director for Legal Services; and
- (v) Mr. Joseph Musembi, Director for Finance and Accounts.

4.1. AUDIT QUERY NO. 1 CASH AND CASH EQUIVALENT

59. The statement of financial position as at 30 June, 2017 reflects cash and cash equivalents balance of Ksh. 5,710,714,000 which as disclosed in Note 8 to the financial statements includes fixed deposits amounting to Ksh. 2,367,774,000 in a private commercial institution contrary to Treasury Circular No. 10 of July, 1992 and No. 2 of February, 1998 which requires that such funds be invested in Treasury bills and Bonds. Consequently, the Management is in breach of the law.

Management Response

60. The accounting officer submitted that financial year ended 30th June 2017, the Fund held fixed deposit of Ksh. 2,366,778,109 in the Commercial Bank of Africa Limited as disclosed in Note 12 (a) of the financial statements. The Kenya Information and Communication Act, Chapter 411A Section (21) provides that the Board may invest any of the funds, which are not immediately required for its purposes. Further, section 21(1) stipulates that the Board may place on deposit with such bank or banks as it may determine, any moneys not equivalent required for the purposes of the Authority.

61. He further submitted that the bank accounts were opened after obtaining approval of the National Treasury to authorize the opening, operating and closing of bank accounts for all national government entities. Universal Service Fund Board and its Management had selected Commercial Bank of Africa to invest funds based on the following considerations-

- (a) The bank's ranking by Central Bank of Kenya as Tier 1, which according to the Central Bank of Kenya Banking Sector Annual Report for the year 2016, the Commercial Bank of Africa Limited was ranked 7th with a total net asset of Ksh. 210.8 billion and market share of 5.9%;
- (b) The Authority already had banking facilities with other local banks including Kenya Commercial Bank and Cooperative Bank of Kenya;
- (c) The financial institution had a good reputation from other public sector institutions banking with it;
- (d) The placements in the fixed deposit accounts were the most appropriate considering the short tenure to the close of the financial year; and
- (e) The Fund earned Ksh. 8,054,822 for the 59 days that the account was in operation to the year ended 30th June 2017. The Funds were placed at a marginally higher interest rate of 9% per annum compared to the prevailing 91 day Treasury Bills rate of 8.3 % p.a. The interest income comparison is as analyzed in Table 1:-

Table 1: Comparison of 91-Day Treasury Bills to the Banks interest rates:-

Date of Placement	Date of Maturity	Principal	Gross CBA Interest earned	Gross T-Bill Interest earned (No. 2218 & 2210)	Difference
02/05/17		500,000,000.00	7,027,397.26	6,854,054.79	173,342.47
02/05/17	28/06/17	-500,000,000.00			
28/06/17	30/06/17	1,800,000,000.00	887,671.23	819,616.44	68,054.79
29/06/17	30/06/17	505,973,287.66	124,760.54	115,195.56	9,564.97
29/06/17	30/06/17	60,804,821.90	14,992.97	13,843.51	1,149.46
	Total	2,366,778,109.56	8,054,822.00	7,802,710.30	252,111.70

62. The accounting officer further submitted that the Universal Service Fund had flagged out its first project in the financial year 2015/2016 where it connected 212 sub-locations with ICT services where 889 public schools in the 47 Counties benefited with computer kits.
63. He also submitted that during the financial year 2015/2016, the Fund annual budget was Ksh. 7 billion which is expected to rise to Ksh. 270 billion in order to ensure connectivity to the whole country.

Committee Observations

64. The Committee observed as follows-

- (i) The Fund was operationalized under of the Information and Communications (Universal Access and Service) regulations of 2010;
- (ii) Regulation 12(2) of Universal Access and Service regulations of 2010 allows the Fund to invest surplus funds in fixed bank deposits or Government securities; or any other investments approved by the Commission and in accordance with applicable financial Regulations;
- (iii) Section 28 of the Public Finance Management Act, 2012 requires the Fund to obtain an authority from the National Treasury prior to investment of surplus funds; and
- (iv) The National Treasury had granted the Fund the authority to undertake the investments; hence the audit query was resolved as confirmed by the Auditor-General.

4.2. GENERAL OBSERVATIONS AND RECOMMENDATIONS

4.2.1. GENERAL OBSERVATIONS

65. Arising from the submissions made by the accounting officer during the meeting, the Committee made the following general observations on the operations of the Fund, that-

- (i) The Fund flagged out its first project in the financial year 2015/2016 where it connected 212 sub-locations with ICT services. The connections benefitted 889 public schools in the 47 Counties with computer kits;
- (ii) During the financial year 2015/2016, the Fund annual budget was Ksh. 7 billion which is expected to rise to Ksh. 270 billion in order to ensure connectivity to the whole country; and
- (iii) There is likelihood of duplication of projects initiated by the Universal Service Fund, the Ministry concerned with matters of Education, the County Governments and the National Government Constituency Development Fund at the grassroots.

4.2.2. GENERAL RECOMMENDATIONS

66. The Committee therefore made the following recommendations, That:

- (i) The Universal Service Fund Board develops partnerships with the National Government Constituency Development Fund Board, the Ministry concerned with education matters and all key players in development at the constituency level during implementation of its projects to enhance participation and avoid duplication of projects; and
- (ii) The Universal Service Fund Board ensures equity in sharing of resources for development, including ICT connectivity to schools.

CHAPTER FIVE

5. CONSIDERATION OF THE REPORT OF THE AUDITOR-GENERAL ON AUDITED FINANCIAL STATEMENTS OF THE WATER SECTOR TRUST FUND FOR THE YEAR ENDED 30TH JUNE, 2017

67. Mr. Ismail Shaiye, the Chief Executive Officer of Water Sector Trust Fund appeared before the Committee on 6th June, 2019. He was accompanied by Mr. Samuel Gitau, Ag. Chief Manager, Finance and Mr. Edwin Korir, internal Auditor.

5.1. AUDIT QUERY NO. 1 QUESTIONABLE COSTS

68. During the year under review, there were questionable costs from current and past audits amounting to Ksh. 25,691,157 for the financial year ending 30th June, 2017 (Kshs. 30,515,207 as at 30th June 2016) which have not been cleared. Though these have been disclosed as contingent liabilities in the financial statements, it is not clear whether or not these will eventually crystallize.

Management Response

69. The accounting officer submitted that amounts totaling to Kshs. 25,691,157 questioned from the current and past audits of projects funded by the Water Sector Trust Fund were still outstanding. The projects in question were from the various investment windows at the Water Sector Trust Fund and their sources of funding are as diverse as the funding portfolio at the Fund.

70. He further submitted that the questioned costs were raised at the implementing partners' level due to various reasons such as lack of supporting documents, irregular procurement procedures, failure to account for funds, late completion of projects activities, over expenditure on budget lines and use of funds for unbudgeted activities.

71. He also submitted that the Water Sector Trust Fund Board had obtained documents to support expenditure amounting to Ksh. 8,657,275. However, amounts totaling KSh. 16,709,882 were reported to Ethics and Anti-Corruption Commission for further investigation and that follow up of Ksh. 324,000 was still on-going.

Committee Observations

72. The Committee observed, That-

- (i) The Water Sector Trust Fund Board has initiated measures geared towards resolving some audit queries arising from previous years;
- (ii) The Water Sector Trust Fund Board was yet to come up with a framework to monitor projects under implementation by various agencies/ community based

organizations to ensure that they are carried out in line with public procurement and Asset Disposal Act, 2015;

- (iii) The Ethics and Anti-corruption Commission had commenced investigations regarding amounts totaling Ksh. 16,709,882; and
- (iv) The project implementing agencies failed to adhere to various provisions of the Public Procurement and Asset Disposal Act, 2015.

Committee Recommendation

73. The Committee having considered the audit query recommends that-

- (i) The Water Sector Trust Fund Board develops appropriate mechanisms to ensure agencies that they fund operate within the relevant provisions of Financing Agreements, Public Procurement and Asset Disposal Act 2015 and Public Finance Management Act 2012;
- (ii) The Water Sector Trust Fund Board avails adequate resources and tools to strengthen monitoring and evaluation of projects under implementation;
- (iii) The Ethics and Anti-Corruption Commission fast-track all on-going investigations of the Fund and submit a status report to the National Assembly within three months of adoption of this report by the House; and
- (iv)
- (v) The accounting officer of Water Sector Trust Fund takes appropriate measures to resolve the outstanding audit queries in accordance with Section 53 (1 of the Public Audit Act, 2015

DATE: 17/10/2019 SIGNATURE: 

HON. KATHURI MURUNGI, M.P.
CHAIRPERSON, SPECIAL FUNDS ACCOUNTS COMMITTEE

**MINUTES OF THE SPECIAL FUNDS ACCOUNTS SUB-COMMITTEE FOR THE
FIELD VISIT TO TRANS NZOIA COUNTY HELD ON FRIDAY, 27TH
SEPTEMBER, 2019 AT 9.00 A.M.**

PRESENT

1. Hon. William Kamuren Chepkut, M.P. - **Vice Chairperson/Team Leader**
2. Hon. Erastus Kivasu Nzioka, M.P.
3. Hon. Mwambu Mabongah, M.P.
4. Hon. Jared Okelo, M.P.

COMMITTEE SECRETARIAT

1. Ms. Lucy Kimathi - Principal Clerk Assistant
2. Ms. Claire Kidombo - Research Officer II
3. Mr. Josphat Bundotich - Senior Serjeant-At-Arms
4. Ms. Fatuma Abdi - Audio - Recording

MINISTRY OF LANDS & PHYSICAL PLANNING TEAM

1. Mr. Peter Waithaka - Deputy Director, Land Adjudication & Settlements
2. Mr. Ndung'uKiarie - Principal Finance Officer
3. Mr. Emmanuel Mutunga - Surveyor
4. Ms. Crecencia A. Nyanga - Land Adjudication Officer, Trans Nzoia County
5. Mr. Abed K. Malwa - Deputy County Commissioner, Trans Nzoia East

OFFICE OF AUDITOR GENERAL OFFICE

1. Mr. Francia Kabui - Audit Manager/Liaison Officer

MIN.NO./NA./SFAC/2019/001 - OBJECTIVES OF THE VISIT

1. The report of the Auditor General on audited financial statements for Agriculture Settlement Trustee Fund for the financial year ended 30 June, 2016 is amongst the report that the Committee had been examining.
2. During examination of the report, the Committee was furnished with a schedule for land purchased for Internally Displaced Persons for Ksh. 4,076,800,380.00 which was subject to an expenditure amounting to Ksh. 6,176,800,380.00 queried by the Auditor General.
3. At its meeting held on 12th September, 2019, the Committee resolved to sample some of these lands and undertake field visit in some farms in the counties of Nakuru and Trans Nzoia to ascertain the beneficiaries of land in question.
4. The visits were would be undertaken by two sub-Committees with the following objectives:

- (a) To conduct a physical verification of the information supplied by the Ministry of Lands pertaining to the size and ownership of land purchased under the IDP programme; and
- (b) To ascertain the actual beneficiaries settled in the land purchased under the IDP programme.

MIN.NO./NA./SFAC/2019/003 - BRIEF BY THE MINISTRY OF LANDS AND PHYSICAL PLANNING

Mr. Peter K. Waithaka, the Assistant Deputy Director, Land Adjudication & Settlements took the Committee through a brief on Internally Displaced Persons and forest evictees. He informed that-

- 5. The resettlement programme for the Internally Displaced Persons (IDPs) commenced on October 25th, 2009 following a Presidential Directive of September 25th 2009.
- 6. The exercise was aimed at resettling (6,978) IDPs families living in the 20 tented IDP camps situated in the former Rift Valley and Central Provinces.
- 7. Profiling and registration of these groups was done by the former *Ministry of State for Special Programmes*.
- 8. A total of 7,107 households who had been evicted from various forests for the purpose of restoring Government forests reserves including the Mau Forest Complex (Nakuru and Narok counties) - 3,036; Embobut (Elgeyo Marakwet county) - 2,874; Kieni (Kiambu county) - 805; and Teldet (Trans Nzoia county) - 392 were also targeted for re-settlement.
- 9. A total of 176 farms measuring 19,228 acres were purchased for the resettlement of IDPs and twelve (12) farms measuring 4,705 acres for the resettlement of Forest Evictees at a total cost of Kenya Shillings 4,008,627,579 as summarized below:

Target group	Number of farms purchased	Acreage
Internally Displaced Persons (IDPs)	176	19,228
Forest evictees farms	12	4,705
TOTAL	188	23933

- 10. 26 farms under the settlement schemes for IDPS and Forest Evictees have been finalized and title deeds issued to the beneficiaries. However, registration for 92 IDPs farms is on-going.

MIN.NO./NA./SFAC/2019/002 - FIELD VISITS

The Sub-Committee paid courtesy call to the offices of the Trans Nzoia County Governor and County Commissioner, Mr. Sam Ojwang' prior to proceeding to the field.

11. The Committee was expected to visit the following sampled land purchased for settlement of Internally Displaced Persons in Trans Nzoia County

No.	Area Of Land (Acres)	Land Registration No. (L.R. No.)	Cost Kshs.	Date Purchased	Registered Under
1.	1760	57121 and 6136	704,000,000.00	2 nd March, 2010	Arnagherry Ltd
2.	138.9	Trans-Nzoia/Cherangani/219	47,500,000.00	17 th July, 2012	Peter Njoroge J. Gatua
3.	116.13	Trans-Nzoia/Cherangani/211	23,225,000.00	25 th July, 2012	Frank Muiruri, Rahab Mumbi, Berry Kinuthia

12. However, the land parcels under LR Nos. 57121 and 6136 totaling to 1760 acres indicated under ANARGHERRY LTD was excluded from the visit owing to advise vide a letter Ref. MOLPP/ADM/19/9(52) dated 20th September, 2019 addressed to the Clerk of the National Assembly and signed by Dr. Muraguri, the Principal Secretary, Ministry of Lands and Physical planning and whose copy was tabled to the Committee during the visit.
13. In the letter, the PS indicated that the land was erroneously captured in the list of land purchases for IDPs, which had been supplied to the Committee and that this land does not relate to conventional Schemes, hence neither purchase no payment was made.

Farms visited

The Committee was able to visit four farms located in in Bonde Village, Suwerwa Location, Cherangani Constituency, TransNzoia East Sub-County;

- a) 116.13 Acres of land LR No. Trans Nzoai/Cherangani/211 purchased on 25-07-2012 for Ksh. 23,225,000.00
- b) 55 acres of Land LR No. Trans Nzoia/Cherangani/213 purchased on 04-06-2012 for Ksh. 12,375,000.00
- c) 43.23 acres of Land LR No. Trans Nzoia/Cherangani/18 purchased on 18-04-2012 for Ksh. 19,712,500.00
- d) 138.9 acres of Land LR No. Trans Nzoia/Cherangani/219 purchased on 24-08-2012 for Ksh. 25,000,000.00

COMMITTEE FINDINGS

1. Subdivision of the land was yet to be concluded despite the Presidential Directive of September 25th 2009.
2. Failure by Ministry of Lands and Physical Planning to conclude sub division and issuance of the title deeds had led to over 250 IDPs being settled in make shift structures, living in deplorable conditions where basic sanitation amenities were lacking.
3. The Ministry of Land and Physical Planning had not prioritized resettlement of the IDPS since the year 2012 when the land was purchased
4. The process of IDPs resettlement was not planned well given the period it had taken for the process to be completed.

SIGNED.....

HON. WILLIAM CHEPKUT, M.P
(Chairperson)

DATE.....

MINUTES OF THE SITTING OF THE SPECIAL FUNDS ACCOUNTS SUB - COMMITTEE FIELD VISIT TO NAKURU COUNTY ON THE VERIFICATION OF PARCELS OF LAND PURCHASED FOR INTERNALLY DISPLACED PERSONS (IDPs) ON FRIDAY, 27TH SEPTEMBER, 2019 AT 9.00 A.M.

PRESENT

1. Hon. Kathuri Murungi, M.P. - **Chairperson**
2. Hon. Geoffrey Omuse, M.P.
3. Hon. Shakeel Shabbir Ahmed, CBS, M.P
4. Hon. Marwa Kitayama Maisori, M.P.
5. Hon. James Kamau Wamacukuru, M.P.

APOLOGIES

1. Hon. Esther Muthoni Passaris, OGW, M.P.
2. Hon. Mohamed Ali Mohamed M.P

COMMITTEE SECRETARIAT

1. Ms. Hellen Ekadeli - Second Clerk Assistant
2. Ms. Deborah Mupusi - Media Relations Officer
3. Mr. Daniel Kirwa - Parliament Security Officer
4. Mr. John Nganga - Audio-Recording Officer

IN-ATTENDANCE

NAKURU COUNTY OFFICIALS

1. Mr. Erastus M. Mbui - County Commissioner
2. Mr. Stanley Njoroge - LASO Nakuru
3. Mr. Samuel Thiongo - Assistant Director, Lands Adjudication & Settlement
4. Mr. Anthony Munyasya - Regional Surveyor
5. Mr. Ben Kipkorir Yatich - Rongai Sub-County Administrator

OFFICE OF THE AUDITOR GENERAL

1. Mr. Stephen Taiku - Manager – Audit

MINISTRY OF LANDS& PHYSICAL PLANNING

1. Mr. Michael Nyamai - Deputy Director, Lands Adjudication & Settlement

GIWA FARMS A

1. Mr. J. M Kavita - DCC Rongai
2. Ms. Dorcas Cherui - DCIO Rongai
3. Mr. Richard Rotich - OCPD Rongai
4. Mr. Gemenet Kimtai - OCS Rongai
5. Mr. Robert Isack - NIS Rongai
6. Mr. Anderson Chibanza - ACC Rongai
7. Pastor Moses Chege - Chairperson Giwa Farm A

GIWA FARMS B

1. Mr. Harun Muthui - Chairperson Giwa Farm B
2. Mr. Kefa Ooga - P.A. to Hon. Raymond Moi, MP
3. Mr. John Njagi - Chief Rongai Location

MIN.NO./NA./SFAC/2019/001 - PRELIMINARIES

The meeting was called to order at 9.30 a.m. with a word of prayer from the Chairperson and thereafter highlighted the objectives of the visit and its link with the mandate of the Committee. The agenda of the meeting was as circulated:

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. Matters Arising
5. **Field visits to Nakuru County Commissioner's Office; Giwa Farms A& B.**
7. Any Other Business
8. Adjournment.

MIN.NO./NA./SFAC/2019/002 - CONFIRMATION OF MINUTES

There were no minutes to be confirmed and therefore no matters arising.

MIN.NO./NA./SFAC/2019/003 - BRIEF FROM NAKURU COUNTY COMMISSIONER

The County Commissioner welcomed the members and the technical team of government officials to his office and thereafter followed by introduction and brief of Giwa, Lomolo and Kisima Farms.

The Committee was informed that the Lomolo and Giwa Farms are situated in Rongai Constituency which borders Baringo County. He confirmed that the beneficiaries have been settled in the land having been demarcated into two and a quarter acres and distributed to each household. The quarter acre is meant for residential and the two acreage for farming. It was noted that the Kisima Farm has experienced perennial disputes attributed to political elements of imposing people from other regions to the genuine register for resettlement. The Committee learnt that the exercise of surveying and demarcating Kisima Farm stopped due to a Court Case from the former squatters of the land who demanded to be resettled in the land.

MIN.NO./NA/SFAC/2019/004 - GIWA FARMS A & B

The Chairperson of Giwa Farms A informed the committee that the IDPs settled in Giwa in October, 2009 with a total number of 214 family heads who were resettled in two and a quarter acreage of land per family. The families have settled and built permanent houses with provision of schools (primary and secondary). It was confirmed that the area has a supply of electricity and water connection.

GIWA FARMS B

It was learnt that the parcel of land under Giwa was sub divided by the locals for administrative functions of the residents due to the expansive nature of the land.

The Committee learnt that Giwa A and B co-exist peacefully with each other and that each section conducts its administrative issues. The challenges affecting the locals were on the acquisition of the title deeds and provision of polytechnic school within their locality.

Committee Findings

1. The land was purchased and distributed to 214 households settled in Giwa Farm A; and 230 households in Giwa B, with a total of 444 households.
2. The Community requests the Committee to fastrack the issuance of title deeds to the individual owners of land;

3. The Community requests financial support from the County leadership to drill a borehole in the farm for irrigation purposes; and
4. The Community requests the provision of polytechnic school within their locality.

MIN.NO./NA./SFAC/2019/005 - ADJOURNMENT/DATE OF NEXT MEETING

There being no other business the meeting was adjourned at 2.00 p.m. and next session to resume at 3.00 p.m.

SIGNED.....


HON. KATHURI MURUNGI, M.P

(Chairperson)

DATE.....

17/10/2019.

MINUTES OF THE SITTING OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE REPORT WRITING RETREAT ON AUDITED FINANCIAL STATEMENTS OF AGRICULTURAL SETTLEMENT FUND FOR THE YEAR ENDED 30TH JUNE, 2016 IN MOMBASA COUNTY ON TUESDAY, 27TH AUGUST, 2019 AT 2.00 P.M.

PRESENT

1. Hon. Kathuri Murungi, M.P. - **Chairperson**
2. Hon. William Kamuren Chepkut, M.P. - **Vice Chairperson**
3. Hon. Alfred Agoi Masadia, M.P.
4. Hon. Geoffrey Omuse, M.P.
5. Hon. Esther Passaris, OGW, M.P.
6. Hon. Mohamed Ali Mohamed M.P.
7. Hon. James Kamau Wamacukuru, M.P.
8. Hon. Dennitah Ghati, HSC, M.P.

APOLOGIES

1. Hon. Shakeel Shabbir Ahmed, CBS, M.P.
2. Hon. Marwa Kitayama Maisori, M.P.
3. Hon. Erastus Kivasu Nzioka, M.P.
4. Hon. Dr. Irene Kasalu, MP
5. Hon. Jared Okelo, M.P.
6. Hon. Justus Kizito Mugali, M.P.
7. Hon. Irene Kasalu, M.P.
8. Hon. Mwambu Mabongah, M.P.
9. Hon. Mohamed Ali Lokiru, M.P.
10. Hon. Mark Lomunokol, M.P.
11. Hon. Rehema Jaldesa, M.P.
12. Hon. Abdi Koropu Tepo, M.P.

COMMITTEE SECRETARIAT

1. Ms. Hellen Ekadeli - Second Clerk Assistant
2. Ms. Clarah Kimeli - Senior Legal Counsel
3. Mr. Robert Ngetich - Fiscal Analyst
4. Ms. Kaare Naserian - Serjeant-at-Arms
5. Mr. James Muriuki - Parliament Security Officer
6. Ms. Fatuma Abdi - Audio-Recording Officer

7. Mr. Meshack Mutali - Office Attendant

IN-ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

1. Mr. Francis Kabui - Manager – Audit
2. Mr. Stephen M. Taiku - Manager – Audit
3. Mr. Peter Lugerah - Manager - Audit

NATIONAL TREASURY

1. Mr. Geoffrey Mwitari - Asst. Accountant

MIN.NO./NA./SFAC/2019/005 - PRELIMINARIES

The meeting was called to order at 2.30p.m. with a word of prayer from the Chairperson. The agenda of the meeting was as circulated:

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. Matters Arising
5. Consideration of the draft report on audited financial statements on Agricultural Settlement Fund for year ended 30th June, 2016
7. Any Other Business
8. Adjournment.

MIN.NO./NA./SFAC/2019/006 - CONFIRMATION OF MINUTES

There were no minutes to be confirmed and therefore no matters arising.

MIN.NO./NA/SFAC/2019/007 - CONSIDERATION OF THE DRAFT REPORT ON AUDITED FINANCIAL STATEMENTS ON AGRICULTURAL SETTLEMENT FUND FOR YEAR ENDED 30TH JUNE, 2016.

3. TRADE AND OTHER PAYABLES FROM EXCHANGE TRANSACTIONS

The statement of financial position as at 30th June, 2016 under Note 12 to the financial statements reflects trade and other payables from exchange transaction with the following balances and which had no supporting schedules:-

Item	Amount (Kshs.)
Reserve for Bad debts	6,602,797

Other Creditors	3,150,139
Accrued Interest on Loans	301,500
Suspense Credit Items	122,806,862
Fund drawn from Treasury	<u>5,153,814</u>
	107,598,612

Committee Observation

Failure to provide supporting schedules for the balances of Kshs. 107,598,612 was in violation of Section 62 of the Public Audit Act 2015, Public Finance Management Act 2012 and the Public Finance Management (National Government) Regulations, 2015.

Committee Recommendations

- (i) That the Fund prepares its financial statements as per the available accounting records which can be produced for audit review and submit to the Office of the Auditor General within three months from the tabling of this report.
- (ii) The accounting officer to take appropriate measures to resolve the outstanding audit issue in accordance with Section 68 (2) (1) of the Public Finance Management Act, 2012; and
- (iii) The accounting officer to ensure strict compliance with the provisions of Section 62 of the Public Audit Act, No.34 of 2015 and Public Finance Management Act, No. 18 of 2012 on submission of accounting records for audit review.

4. BUDGETARY CONTROL

During the year under review, the Fund did not avail the approved budget for audit review. It was further noted that the financial statements prepared did not include the statement of comparison of budget and actual amounts as required by IPSAS 24 paragraph 14 and the government approved template. As a result, it could not be confirmed whether the Fund operated within the approved budget.

Committee Observation

- (i) The financial statements did not include the statement of comparison of budget and actual amounts which violates IPSAS reporting requirements; and
- (ii) The approved budget and the statement of comparison of budget and actual amounts were submitted for review and the matter resolved as confirmed by the Auditor-General.

Committee Recommendation

- (i) The accounting officer ensures compliance to Section 81(3) of the Public Finance Management Act, 2012 which requires an accounting officer to comply with the relevant accounting standards prescribed and published by the Accounting Standards Board in preparation of the financial statements.

GENERAL OBSERVATIONS

The Committee made the following general observations regarding the Agricultural Settlements Fund:-

- (i) Most documents to support amounts queried by the Auditor-General were unavailable, hence the Ministry of Lands and Physical Planning was relying on manual records to reconstruct the accounts of the Fund, a process which is still on-going;
- (ii) The true financial position of the Fund will be ascertained once reconstruction exercise is completed;
- (iii) The reconstruction exercise has reviewed that financial statements under audit review were greatly understated and the correct figures will be ascertained once the exercise is completed; and
- (iv) Most of the audit queries have not been resolved owing to absence of accounting documents to support the provided figures.

GENERAL RECOMMENDATIONS

Arising from the oral and written evidence taken, submissions received and observations, the Committee recommends that:-

- (i) That the Fund reconstructs its financial statements as per the available accounting records which can be produced for audit review and submit to the Office of the Auditor General within three months from the tabling of this report.
- (ii) The accounting officer to take appropriate measures to resolve the outstanding audit issue in accordance with Section 68 (2) (l) of the Public Finance Management Act, 2012.
- (iii) The accounting officer ensures compliance to Section 81(3) of the Public Finance Management Act, 2012 which requires an accounting officer to comply with the relevant accounting standards prescribed and published by the Accounting Standards Board in preparation of the financial statements.

- (iv) THAT, the Directorate of Criminal investigations (DCI) do investigate the institution as to the verosity of the loss of documents attributed to the loss of documents as alleged by the Fund.
- (v) THAT the DCI to investigate and take action against any officers of the Board for breach of section 68 (2) (b) and (c) of the Public Finance Management Act, 2012 which is a statutory duty which requires all financial and accounting records kept in any form to be adequately protected and backed up.

MIN.NO./NA./SFAC/2019/008 - ADJOURNMENT/DATE OF NEXT MEETING

There being no other business the meeting was adjourned at 5.00 p.m.

SIGNED.....


HON. KATHURI MURUNGI, M.P
(Chairperson)

DATE.....

17/9/2019

MINUTES OF THE SITTING OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE ON REPORT WRITING RETREAT ON AUDITED FINANCIAL STATEMENTS OF AGRICULTURAL SETTLEMENT FUND FOR YEAR ENDED 30TH JUNE, 2016 IN MOMBASA COUNTY ON TUESDAY, 27TH AUGUST, 2019 AT 10.00 A.M.

PRESENT

1. Hon. Kathuri Murungi, M.P. - **Chairperson**
2. Hon. William Kamuren Chepkut, M.P. - **Vice Chairperson**
3. Hon. Alfred Agoi Masadia, M.P.
4. Hon. Geoffrey Omuse, M.P.
5. Hon. Esther Muthoni Passaris, OGW, M.P.
6. Hon. Mohamed Ali Mohamed M.P.
7. Hon. James Kamau Wamacukuru, M.P.
8. Hon. Dennitah Ghati, HSC, M.P.

APOLOGIES

1. Hon. Shakeel Shabbir Ahmed, CBS, M.P.
2. Hon. Marwa Kitayama Maisori, M.P.
3. Hon. Erastus Kivasu Nzioka, M.P.
4. Hon. Dr. Irene Kasalu, MP
5. Hon. Jared Okelo, M.P.
6. Hon. Justus Kizito Mugali, M.P.
7. Hon. Irene Kasalu, M.P.
8. Hon. Mwambu Mabongah, M.P.
9. Hon. Mohamed Ali Lokiru, M.P.
10. Hon. Mark Lomunokol, M.P.
11. Hon. Rehema Jaldesa, M.P.
12. Hon. Abdi Koropu Tepo, M.P.

COMMITTEE SECRETARIAT

1. Ms. Hellen Ekadeli - Second Clerk Assistant
2. Ms. Clarah Kimeli - Senior Legal Counsel
3. Mr. Robert Ngetich - Fiscal Analyst
4. Ms. Kaare Naserian - Serjeant-at-Arms
5. Mr. James Muriuki - Parliament Security Officer
6. Ms. Fatuma Abdi - Audio-Recording Officer

7. Mr. Meshack Mutali - Office Attendant

IN-ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

1. Mr. Francis Kabui - Manager – Audit
2. Mr. Stephen Taiku - Manager – Audit
3. Mr. Peter D. Lugerah - Manager – Audit

NATIONAL TREASURY

1. Mr. Geoffrey Mwitari - Asst. Accountant

MIN.NO./NA./SFAC/2019/001 - PRELIMINARIES

The meeting was called to order at 10.30 a.m. with a word of prayer from the Chairperson, who welcomed the members, the secretariat and the technical officers from the National Treasury and the Office of the Auditor General. The agenda of the meeting was as circulated:

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. Matters Arising
5. Consideration of the draft report on audited financial statements on Agricultural Settlement Fund for year ended 30th June, 2016.
7. Any Other Business
8. Adjournment.

MIN.NO./NA./SFAC/2019/002 - CONFIRMATION OF MINUTES

The confirmation of minutes was deferred to the next session.

MIN.NO./NA./SFAC/2019/003 - CONSIDERATION OF THE DRAFT REPORT ON AUDITED FINANCIAL STATEMENTS ON AGRICULTURAL SETTLEMENT FUND FOR YEAR ENDED 30TH JUNE, 2016.

1. PROPERTY, PLANT AND EQUIPMENT

The Funds statement of financial position as at 30th June, 2016 reflects a balance of Kshs. 7,432,878,660 for non-current assets. However, schedules for land and buildings and fixed and loose assets amounting to Kshs. 6,176,800,380 and Kshs. 38,680,431 respectively were not availed for audit

review. Further, the Fund did not maintain a fixed/non-current assets register during the year under review thereby making it difficult to determine whether all the non-current assets were accounted for.

In the circumstance, it has not been possible to confirm whether the balance for property, plant and equipment of Kshs. 7,432,878,660 included in the statement of financial position as at 30th June, 2016 is fairly stated.

Committee Observations

- (i) The schedules for Land and Buildings and fixed assets amounting to Kshs. 4,076,800,380 had been forwarded for verification as confirmed by the Auditor-General, and the audit query on the figure resolved as confirmed by the Auditor-General; it was noted that land was purchased to settle Internally Displaced Persons (IDPs) totaling Kshs. 4,076,800,380 but was not physically verified by the auditor general and a transfer of Ksh. 2,100,000,000 was made to the Ministry of Special Programmes for cash payment to the IDPs. However, Kshs. 38,680,431 could not be supported;
- (ii) The accounting officer contravened section 68 (2) (b) and (c) of the Public Finance Management Act, 2012 which requires all financial and accounting records kept in any form to be adequately protected and backed up;
- (iii) The fixed/non-current asset register submitted was not updated; and
- (iv) Failure to maintain a fixed/non-current register contravenes Section 81(3) of the Public Finance Management Act, 2012 which requires an accounting officer to comply with the relevant accounting standards prescribed and published by the Accounting Standards Board in preparation of the financial statements.

Committee Recommendations

- (i) That the Accounting Officer with the approval of Cabinet Secretary National Treasury, consider writing off the unaccounted balances in accordance to Section 69 of the Public Finance Management Act, 2012;
- (ii) The Fund to prepare and update regularly the Fixed Asset Register in accordance with the Public Finance Management Act 2012 Regulation 143 which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws;

- (iii) The accounting officer to take appropriate measures to resolve the outstanding audit issue in accordance with Section 68 (2) (l) of the Public Finance Management Act, 2012;
- (iv) The Auditor General to physically verify the land purchased to settle Internally Displaced Persons (IDPs) totaling Kshs. 4,076,800,380 and the transfer of Ksh. 2,100,000,000 to the Ministry of Special Programmes and report in the next audit review;
- (v) The Auditor General to verify the transfer of Kshs. 2,100,000,000 to the Ministry of Special Programmes and to determine whether it was used for the intended purpose and report within the next two weeks (10th September, 2019); and
- (vi) The accounting officer to ensure strict compliance with the provisions of Section 62 of the Public Audit Act, No.34 of 2015 and Public Finance Management Act, No. 18 of 2012 on submission of accounting records for audit review.

In conclusion the Committee resolved to visit the lands bought to establish whether it exists and also obtain details of people settled in the land and verify the expenditure of 2.1 B distributed to the IDPs for resettlement. The secretariat was tasked to write to the Ministry of Interior and Special Programmes to inform of the intended visits and provide the technical officers on the ground to assist in provision of information.

2. CURRENT ASSETS

2.1 Receivables from Non-Exchange Transactions

Issue raised by the Auditor

The financial statements reflect receivables from non-exchange transactions balance of Kshs. 784,313,839. The balance was arrived at after setting off total credit balances of Kshs. 2,870,507,100.00. However, no supporting schedules were availed for audit review in support of these credit balances as was the case in the previous year.

Committee Observations

- (i) Supporting documents for credit balances of Kshs. 2,870,507,100 were not availed during the audit review in violation of Section 62 of the Public Audit Act, 2015, Public Finance Management Act 2012 and the Public Finance Management (National Government) Regulations, 2015; and
- (ii) The Auditor-General confirmed that the Ministry is in agreement that the figures could not be analyzed hence the issue remains unresolved.

Committee Recommendations

- (i) That the Fund prepare its financial statements as per the available accounting records which can be produced for audit review and submit to the Office of the Auditor General within three months from the tabling of this report;
- (ii) The accounting officer to take appropriate measures to resolve the outstanding audit issue in accordance with Section 68 (2) (1) of the Public Finance Management Act, 2012; and
- (iii) The accounting officer to ensure strict compliance with the provisions of Section 62 of the Public Audit Act, No.34 of 2015 and Public Finance Management Act, No. 18 of 2012 on submission of accounting records for audit review.

MIN.NO./NA./SFAC/2019/004 - ADJOURNMENT/DATE OF NEXT MEETING

There being no other business the meeting was adjourned at 1.00 p.m. and next session to resume at 2.00 p.m.

SIGNED.....

HON. KATHURI MURUNGI, M.P
(Chairperson)

DATE.....

17/9/2019

Committee Recommendations

- (i) That the Fund reconciles its current assets and prepare its financial statements as per the available accounting records and which can be produced for audit review and submit to the Office of the Auditor General;
- (ii) The accounting officer to takes appropriate measures to resolve the outstanding audit issue in accordance with Section 68 (2) (l) of the Public Finance Management Act, 2012; and
- (iii) The accounting officer to ensure strict compliance with the provisions of Section 62 of the Public Audit Act, No.34 of 2015 and Public Finance Management Act, No. 18 of 2012 on submission of accounting records for audit review.

2.2 Unsupported Debit Balances

Issues raised by the Auditor

As reported in the previous year, the statement of financial position as at 30th June, 2016 under receivables from non-exchange contracts, the current receivables reflected the following balances and which had no supporting schedules:-

<u>Item</u>	<u>Amount (Kshs.)</u>
Land Loans Issued	278,937,099
Development Loan Issued	231,832,877
Rescue Loans Issued	550,019
Other recoverable Expenses	9,820,460
Billed Amounts - Settlers	2,957,025,616
Other Debtors – Debtors General	32,352,624
Trade Investment	59,263,387
Advances	10,567,668
Suspense – Debit Items	64,507,005
Agency Accounts (Debits)	<u>257,000</u>
	<u>3,645,113,755</u>

Committee Observation

- (i) Supporting schedules for the balances under current assets amounting to Kshs. 3,645,113,755 were not availed during the audit review in violation of Section 62 of the Public Audit Act 2015, Public Finance Management Act 2012 and the Public Finance Management (National Government) Regulations, 2015; and
- (ii) The audit query has been recurring since June 2007 financial year.

MINUTES OF THE SITTING OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE REPORT WRITING RETREAT ON AUDITED FINANCIAL STATEMENTS OF THE WATER SECTOR TURST FUND FOR THE YEAR ENDED 30TH JUNE, 2017 IN MOMBASA COUNTY ON WEDNESDAY, 28TH AUGUST, 2019 AT 2.00 P.M.

PRESENT

1. Hon. Kathuri Murungi, M.P. - **Chairperson**
2. Hon. William Kamuren Chepkut, M.P. - **Vice Chairperson**
3. Hon. Alfred Agoi Masadia, M.P.
4. Hon. Geoffrey Omuse, M.P.
5. Hon. Esther Passaris, OGW, M.P.
6. Hon. Mohamed Ali Mohamed M.P.
7. Hon. James Kamau Wamacukuru, M.P.
8. Hon. Dennitah Ghati, HSC, M.P.

APOLOGIES

1. Hon. Shakeel Shabbir Ahmed, CBS, M.P.
2. Hon. Marwa Kitayama Maisori, M.P.
3. Hon. Erastus Kivasu Nzioka, M.P.
4. Hon. Dr. Irene Kasalu, MP
5. Hon. Jared Okelo, M.P.
6. Hon. Justus Kizito Mugali, M.P.
7. Hon. Irene Kasalu, M.P.
8. Hon. Mwambu Mabongah, M.P.
9. Hon. Mohamed Ali Lokiru, M.P.
10. Hon. Mark Lomunokol, M.P.
11. Hon. Rehema Jaldesa, M.P.
12. Hon. Abdi Koropu Tepo, M.P.

COMMITTEE SECRETARIAT

1. Ms. Hellen Ekadeli - Second Clerk Assistant
2. Ms. Clarah Kimeli - Senior Legal Counsel
3. Mr. Robert Ngetich - Fiscal Analyst
4. Ms. Kaare Naserian - Serjeant-at-Arms
5. Mr. James Muriuki - Parliament Security Officer
6. Ms. Fatuma Abdi - Audio-Recording Officer
7. Mr. Meshack Mutali - Office Attendant

IN-ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

1. Mr. Francis Kabui - Manager – Audit
2. Mr. Stephen M. Taiku - Manager – Audit
3. Mr. Peter Lugerah - Manager - Audit

NATIONAL TREASURY

1. Mr. Geoffrey Mwitari - Asst. Accountant

MIN.NO./NA./SFAC/2019/013 - PRELIMINARIES

The meeting was called to order at 2.30 p.m. with a word of prayer from the Chairperson. The agenda of the meeting was as circulated:

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. Matters Arising
5. Consideration of the draft report on audited financial statements on Water Sector Trust Fund for year ended 30th June, 2017.
7. Any Other Business
8. Adjournment.

MIN.NO./NA./SFAC/2019/014 - CONFIRMATION OF MINUTES

There were no minutes to be confirmed and therefore no matters arising.

MIN.NO./NA./SFAC/2019/015 - CONSIDERATION OF THE DRAFT REPORT ON AUDITED FINANCIAL STATEMENTS ON THE WATER SECTOR TRUST FUND FOR YEAR ENDED 30TH JUNE, 2017.

QUESTIONABLE COSTS

During the year under review, there were questionable costs from current and past audits amounting Ksh. 25,691,157 for the financial year ending 30th June 2017 (Kshs. 30,515,207 as at 30th June 2016) which have not been cleared. Though these have been disclosed as contingent liabilities in the financial statements, it is not clear whether or not these will eventually crystallize.

Committee Observations

- (i) The Board has made some progress in resolving some audit queries arising from previous years;
- (ii) The Board has not put appropriate monitoring of projects under implementation by various agencies/ community based organizations to ensure that they are carried out in line public procurement and Asset Disposal Act and regulations;
- (iii) Investigations by the Ethics and Anti-corruption Commission regarding amounts totaling to Kshs. 16,709,882 were still on-going; and

- (iv) The implementing agencies which mainly consisted of Community Based Organizations (CBOs) failed to adhere to the Public Procurement and Disposal Act, 2015.

Committee Recommendation

- (i) The Board to put in place appropriate mechanism including sensitizing the implementing agencies/ community based organizations to ensure that they operate within the provisions of: Financing Agreements; Public Procurement and Asset Disposal Act 2015 and Public Finance Management Act 2012;
- (ii) The Board to avail adequate resources and tools to strengthen its monitoring and evaluation of the projects being implemented to ensure efficient and effective implementation of projects;
- (iii) The Ethics and Anti-Corruption Commission to fast-track all on-going investigations of the Fund and submit a status report to the National Assembly within three months of adoption of this report by the House; and
- (iv) The accounting officer to take appropriate measures to resolve the outstanding audit issue in accordance with Section 68 (2) (1) of the Public Finance Management Act, 2012.

MIN.NO./NA./SFAC/2019/016 - ADJOURNMENT/DATE OF NEXT MEETING

There being no other business the meeting was adjourned at 5.00 p.m.

SIGNED.....

for

HON. KATHURI MURUNGI, M.P
(Chairperson)

DATE.....

17/9/2019

MINUTES OF THE SITTING OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE REPORT WRITING RETREAT ON AUDITED FINANCIAL STATEMENTS OF UNIVERSAL SERVICE FUND FOR THE YEAR ENDED 30TH JUNE, 2017 IN MOMBASA COUNTY ON WEDNESDAY, 28TH AUGUST, 2019 AT 9.30 A.M.

PRESENT

- | | | |
|---------------------------------------|---|-------------------------|
| 1. Hon. Kathuri Murungi, M.P. | - | Chairperson |
| 2. Hon. William Kamuren Chepkut, M.P. | - | Vice Chairperson |
| 3. Hon. Alfred Agoi Masadia, M.P | | |
| 4. Hon. Geoffrey Omuse, M.P. | | |
| 5. Hon. Esther Passaris, OGW, M.P. | | |
| 6. Hon. Mohamed Ali Mohamed M.P | | |
| 7. Hon. James Kamau Wamacukuru, M.P. | | |
| 8. Hon. Dennitah Ghati, HSC, M.P | | |

APOLOGIES

1. Hon. Shakeel Shabbir Ahmed, CBS, M.P
2. Hon. Marwa Kitayama Maisori, M.P.
3. Hon. Erastus Kivasu Nzioka, M.P.
4. Hon. Dr. Irene Kasalu, MP
5. Hon. Jared Okelo, M.P.
6. Hon. Justus Kizito Mugali, M.P.
7. Hon. Irene Kasalu, M.P
8. Hon. Mwambu Mabongah, M.P.
9. Hon. Mohamed Ali Lokiru, M.P.
10. Hon. Mark Lomunokol, M.P
11. Hon. Rehema Jaldesa, M.P.
12. Hon. Abdi Koropu Tepo, M.P.

COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|-----------------------------|
| 1. Ms. Hellen Ekadeli | - | Second Clerk Assistant |
| 2. Ms. Clarah Kimeli | - | Senior Legal Counsel |
| 3. Mr. Robert Ngetich | - | Fiscal Analyst |
| 4. Ms. Kaare Naserian | - | Serjeant-at-Arms |
| 5. Mr. James Muriuki | - | Parliament Security Officer |
| 6. Ms. Fatuma Abdi | - | Audio-Recording Officer |
| 7. Mr. Meshack Mutali | - | Office Attendant |

IN-ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-------------------------|---|-----------------|
| 1. Mr. Francis Kabui | - | Manager – Audit |
| 2. Mr. Stephen M. Taiku | - | Manager – Audit |
| 3. Mr. Peter Lugerah | - | Manager - Audit |

NATIONAL TREASURY

1. Mr. Geoffrey Mwitari - Asst. Accountant

MIN.NO./NA./SFAC/2019/009 - PRELIMINARIES

The meeting was called to order at 10.00 a.m. with a word of prayer from the Chairperson. The agenda of the meeting was as circulated:

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. Matters Arising
5. Consideration of the draft report on audited financial statements on Universal Service Fund for year ended 30th June, 2017
7. Any Other Business
8. Adjournment.

MIN.NO./NA./SFAC/2019/010 - CONFIRMATION OF MINUTES

There were no minutes to be confirmed and therefore no matters arising.

MIN.NO./NA./SFAC/2019/011 - CONSIDERATION OF THE DRAFT REPORT ON AUDITED FINANCIAL STATEMENTS ON UNIVERSAL SERVICE FUND FOR YEAR ENDED 30TH JUNE, 2017

1. CASH AND CASH EQUIVALENT

The statement of financial position as at 30 June 2017 reflects cash and cash equivalents balance of Kshs 5,710,714,000 which as disclosed in Note 8 to the financial statements includes fixed deposits amounting to Kshs. 2,367,774,000 in a private commercial institution contrary to Treasury Circular No. 10 of July 1992 and No. 2 of February 1998 which requires that such funds be invested in Treasury bills and Bonds. Consequently, the Management is in breach of the law.

Committee Observations

- (i) The Fund was operationalized under of the Information and Communications (Universal Access and Service) of 2010; Regulation 12(2) allows the Fund to invest surplus funds in fixed bank deposits or Government securities; or any other investments approved by the Commission and in accordance with applicable financial Regulations. The Public Finance Management Act under section 28 requires the Fund to obtain an authority from the National Treasury which was granted; and
- (ii) The audit query on investments was therefore resolved.

GENERAL OBSERVATIONS

The Committee made the following general observations and recommendations arising from submission made regarding the management of the Universal Service Fund:-

- (i) The Fund flagged out its first project in financial year 2015/2016 where it connected 212 sub-locations with ICT services. The connection benefitted 889 public schools in the 47 counties with existing computer kits;
- (ii) During the financial year 2015/2016, the Fund annual budget was Kshs. 7 billion which is expected to rise to Kshs. 270 billion in order to ensure connectivity to the whole country; and
- (iii) There is likelihood of duplication of projects initiated by the Fund, the Ministry of Education and National Government Constituency Development Fund at the grassroots.

GENERAL RECOMMENDATIONS

- (i) The Universal Service Fund Board develops partnerships with the National Government Constituency Development Fund Board, the Ministry of Education and other key players in development at the constituency during implementation of its projects to enhance participation and avoid duplication; and
- (ii) The Universal Service Fund Board ensures equity in sharing of resources for development, including ICT connectivity to schools.

In conclusion, the Committee resolved that the Fund should provide a status report of the 889 public schools (including special needs schools) which benefitted on provision of ICT connectivity as per Constituency for information to Members.

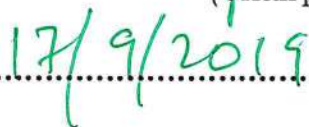
MIN.NO./NA./SFAC/2019/012 - ADJOURNMENT/DATE OF NEXT MEETING

There being no other business the meeting was adjourned at 1.00 p.m.

SIGNED.....


HON. KATHURI MURUNGI, M.P
(Chairperson)

DATE.....



MINUTES OF THE 37TH SITTING OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE HELD ON THURSDAY, 17TH OCTOBER, 2019 IN COMMITTEE ROOM 12, MAIN PARLIAMENT BUILDINGS AT 9.30 A.M.

PRESENT

1. Hon. Kathuri Murungi, M.P. - **Chairperson**
2. Hon. William Kamuren Chepkut, M.P. - **Vice Chairperson**
3. Hon. Erastus Kivasu Nzioka, M.P.
4. Hon. Geoffrey Omuse, M.P.
5. Hon. Marwa Kitayama Maisori, M.P.
6. Hon. Mwambu Mabongah, M.P.
7. Hon. Rehema Jaldesa, M.P.
8. Hon. Esther Passaris, M.P.
9. Hon. Mohamed Ali Lokiru, M.P.
10. Hon. Dr. Irene Kasalu, M.P.

APOLOGIES

1. Hon. Jared Okelo, M.P.
2. Hon. Dennitah Ghati, HSC, M.P
3. Hon. James Kamau Wamacukuru, M.P.
4. Hon. Mohamed Ali Mohamed M.P.
5. Hon. Alfred Agoi Masadia, M.P.
6. Hon. Shakeel Shabbir Ahmed, M.P
7. Hon. Justus Kizito Mugali, M.P.
8. Hon. Mark Lomunokol, M.P.
9. Hon. Abdi Koropu Tepo, M.P.

COMMITTEE SECRETARIAT

1. Ms. Lucy Kimathi - Principal Clerk Assistant II
2. Ms. Fatuma Abdi - Audio Officer

MIN.NO./NA./SFAC/2019/204 - ADOPTION OF THE AGENDA

The Chairperson called the meeting to order at 9.45 a.m. with a word of prayer. The following agenda of the meeting was adopted as circulated having been proposed and seconded by Hon. Kitayama Maisori, M.P. and Hon. Rehema Jaldesa, M.P respectively:

1. Prayers.
2. Preliminaries.
3. Confirmation of pending minutes.
4. Matters Arising.
5. Adoption of the report on audited financial statements for Commodities Fund for the year ended June, 2016 & June, 2017.
6. Adoption Of The Report On Audited Financial Statements For Agriculture Settlement Trustee Fund For The Financial Year Ended 30th June, 2016, Universal Service Fund for the year ended 30th June, 2017 and Water Sector Trust Fund for the year ended 30th June, 2017.

- 6. Any Other Business.
- 7. Adjournment/Date of Next Meeting.

MIN.NO./NA/SFAC/2019/205 - CONFIRMATION OF MINUTES

The Minutes of the 35th sitting were confirmed as true deliberations of the meeting having been proposed and seconded by Hon. Mwambu Mabongah, M.P. and Hon. Erastus Kivasu, M.P. respectively.

The Minutes of the 36th sitting were confirmed as true deliberations of the meeting having been proposed and seconded by Hon. Mwambu Mabongah, M.P. and Hon. Erastus Kivasu, M.P. respectively.

MIN.NO./NA/SFAC/2019/206 - MATTERS ARISING

There were no matters arising.

MIN.NO./NA/SFAC/2019/207 - ADOPTION OF COMMITTEE REPORTS

The reports on audited financial statements for Commodities Fund for the year ended June, 2016 and June, 2017 were adopted on a proposal by Hon. William Kamuren Chepkut, M.P, and seconded by Hon. Rehema Jaldesa, M.P.

The reports on audited financial statements for Agricultural Settlement Trustee Fund for the financial year ended 30th June, 2016, Universal Service Fund for the year ended 30th June, 2017 and Water Sector Trust Fund for the year ended 30th June, 2017 were adopted on a proposal by Hon. Erastus Kivasu, MP, seconded by Hon. Geoffrey Omuse,MP.

MIN.NO./NA./SFAC/2019/208 - ANY OTHER BUSINESS

The Chairman informed the Committee of the Liaison Committee resolution to dedicate 31st October, 2019 to Launch of various Committee activities. Hence, the need to reschedule the report writing retreat scheduled for 31st October, to 4th November, 2019.

The Committee resolved to reschedule the retreat to 7-11, November, 2019 in Mombasa County

MIN.NO./NA./SFAC/2019/ - ADJOURNMENT/DATE OF NEXT MEETING

There being no other business the meeting was adjourned at 11.50 a.m. Next meeting will be by notice

SIGNED.....

HON. KATHURI MURUNGI, M.P

(Chairperson)

DATE.....

17/10/2019