 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 04 JUN 2024	DAY: Tuesday
TABLED BY: CLERK OF THE HOUSE:	Hon. Kimani Ichungwa, MP MAJORITY PARTY LEADER INCHU MWAUS

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REPORT

OF

THE AUDITOR-GENERAL

FOR

THE NATIONAL GOVERNMENT FUNDS

FOR

THE FINANCIAL YEAR

2022/2023

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Foreword

This report, is a compilation of the audit reports of National Government Funds for the year ended 30 June, 2023.

National public funds are special entities created to provide a specific function and public service(s) or implement a specific government programme that cannot be delivered through the structure of the annual budget appropriations. They are meant to improve service delivery within a national government entity. Under Section 24(4) of the Public Finance Management Act, 2012, the Cabinet Secretary responsible for matters relating to finance is empowered to establish a national government public fund with the approval of the National Assembly.

The Auditor-General is mandated by the Constitution of Kenya, under Article 229, to audit and report on the use of public resources by all entities funded from public funds. These entities include the National Government, County Governments, the Judiciary, Parliament, Statutory Bodies/State Corporations, Commissions, Independent Offices, Public Debt, Political Parties funded from public funds, other government agencies and any other entity funded from public funds. In addition, Article 229(6) requires the Auditor-General to confirm whether or not public resources have been applied lawfully and in an effective way. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

Article 229 (7) of the Constitution requires the Auditor-General to audit and submit reports to Parliament or the relevant County Assembly within six (6) months after the end of the financial year. However, Section 81(4) of the Public Finance Management Act, 2012, reduces the timeline to three (3) months by giving entities leeway up to the end of September to prepare and submit financial statements for audit. This reduces the duration for audit and reporting from six (6) months given by the Constitution to three (3) months. This has been adversely affecting the timelines for reporting, leading to delays and affecting the efficiency and effectiveness for oversight by Parliament and the County Assemblies.

Further, as previously reported, an effective mechanism for follow up on implementation of audit recommendations is lacking and as such most audit queries recur in subsequent audit reports due to lack of requisite action. Section 204(1)(g) of the Public Finance Management Act, 2012 provides that the Cabinet Secretary for matters relating to finance may apply sanctions to a national government entity that fails to address issues raised by the Auditor-General, to the satisfaction of the Auditor-General.

However, despite numerous reports indicating lack of accountability and documents to support the legality and effectiveness in the use of public resources, failure to apply the requisite sanctions and consequences has resulted to some Accounting Officers not adequately accounting for the management and use of public resources. Lack of action and sanctions has also led to fiscal indiscipline including misallocations, wastage of resources, lack of value for money in implementation of projects and loss of public funds, thereby impacting negatively on development programmes. This in turn threatens economic growth and sustainability of service delivery to citizens.

The Office of the Auditor-General has been continuously improving on the effectiveness and quality of the audit process to ensure that the results of audit and the recommendations thereof are credible, relevant, reliable and value adding. This is geared towards influencing improved decision making and positive impact on the lives and livelihoods of citizens and other stakeholders. Provision of quality and effective audit services and confirmation of the lawfulness and effectiveness in programme implementation requires comprehensive scrutiny and evaluation of supporting documents. Most critical is the physical confirmation of the existence and utilization of projects or programmes implemented throughout the Country. To achieve this requires an independent and well-resourced audit Office with guaranteed adequate funding to enable efficient, effective and timely execution of the audit cycle as well as retention of optimal staffing levels to ensure continuous, quality and sustainable audit operations.

The Office continues to seek financial independence and support from Parliament and The Executive through The National Treasury for enhancement of resources to enable it build technical capacity, expand its presence in the counties, widen the scope and comprehensiveness of audit and motivate staff. We continue to devolve our services closer to the people through establishment of regional offices and construction of office premises to accommodate our staff in order to address the audit needs at the grassroot level. During the year under review, we established two new regional offices: Kilifi and Kericho Regional Offices. We also established an Environment and Climate Change Unit as part of our Performance Audit Services to respond to the emerging climate change risks. However, the Office continues to make appeals to Parliament and The National Treasury for adequate funds to enable us perform our functions and achieve our mandate in enhancing accountability across government, both at the national and county levels, and in all other entities funded from public funds.


The audit scope has been expanding over the years due to the expansion of government programs to ensure sustainable development and delivery of continuous and quality services to the citizens. This has led to growth in the national budget and formation of additional entities that I am required to audit and report on. During the year under review,

the over nine thousand (9,000) Public Secondary Schools were from 30 June, 2022 required to prepare and submit financial statements to the Auditor-General for audit and quite a number have complied. In addition, I am required to audit and report on financial statements for all the three hundred and fifty-eight (358) Level 4 Hospitals and fourteen (14) Level 5 Hospitals separately. In the current financial year, I am also required to audit a total of thirty-nine (39) Teachers' Training Colleges, two hundred and eighty-seven (287) Technical and Vocational Education and Training (TVET) Institutions and the number could increase as we are currently undertaking an evaluation exercise with the State Department for Technical, Vocational Education and Training to identify all institutions funded by the Exchequer including the Community Vocational Training Institutions that are estimated to be over one thousand and two hundred (1,200) Institutions. In addition, new projects and funds have been created that require timely oversight.

Specific reports together with my opinion for each entity are contained in the respective Fund's audited financial statements for the year ended 30 June, 2023, which I have already submitted to Parliament and to each Accounting Officer.

I wish to sincerely thank the entire staff of the Office of the Auditor-General for their commitment, passion and professionalism in carrying out their duties despite the challenges posed by lack of adequate funds. Special appreciation goes to the team that prepared this Consolidated National Government Funds Report.

I wish also to appreciate my clients or auditees for the cooperation they accorded my staff during the audit.


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

04 May, 2024

Introduction

Constitutional Mandate of the Auditor-General

The Auditor-General is mandated by the Constitution of Kenya, under Article 229, to audit and report on the use of public resources by all entities funded from public funds. These entities include; the National Government, County Governments, the Judiciary, Parliament, Statutory Bodies/State Corporations, Commissions, Independent Offices, Public Debt, Political Parties funded from public funds, other government agencies and any other entity funded from public funds. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

The Constitution requires the Auditor-General to audit and submit the audit reports of the public entities to Parliament and the relevant County Assemblies by 31 December, every year. In carrying out the mandate, the Auditor-General, is also required, under Article 229 (6) to assess and confirm whether the public entities have utilised the public resources entrusted to them lawfully and in an effective way.

Further, the objects and authority of the Auditor-General, as outlined in Article 249 of the Constitution, are: to protect the sovereignty of the people; to secure the observance by all State Organs of democratic values and principles; and, to promote constitutionalism. The Auditor-General has also been given powers by the Constitution, under Article 252, to conduct investigations, conciliations, mediations and negotiations and to issue summons to witnesses for the purpose of investigations.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the International Public Sector Accounting Standards (IPSAS), as prescribed by the Public Sector Accounting Standards Board (PSASB), and for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Management is also responsible for maintaining an effective internal control environment necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error, and for the assessment of the effectiveness of internal control, risk management and governance.

Further, Management is required to ensure that the activities, financial transactions and information reflected in the financial statements, are in compliance with the law and other relevant or applicable authorities, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how each Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance

and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibility

My responsibility is to conduct an audit of the financial statements in accordance with the International Standards of Supreme Audit Institutions (ISSAIs), and to issue an auditor's report. The audit report includes my opinion as provided by Section 48 of the Public Audit Act, 2015, and the report is submitted to Parliament in compliance with Article 229(7) of the Constitution.

In addition, Article 229(6) of the Constitution requires me to express a conclusion on whether or not, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the law and other authorities that govern them, and that public resources are applied in an effective way. I also consider the entities' control environment in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems, in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015.

I am independent in accordance with Article 249(2) of the Constitution of Kenya and ISSAI 130 on the Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of public entities in the Republic of Kenya.

Reporting Structure

The reporting structure of my report address the reporting requirements of Article 229(6) of the Constitution of Kenya, which requires that an audit report shall confirm whether or not public resources have been applied lawfully and in an effective way. Section 7(1) (a) of the Public Audit Act, 2015 also requires that I provide assurance on the effectiveness of internal controls, risk management and overall governance.

In addition, the International Standards of Supreme Audit Institutions (ISSAIs), require the incorporation of Key Audit Matters in the report on the financial statements, which are those matters that I determine in my professional judgment, are of most significance in the audit of the financial statements as a whole, for the year under review.

In order to address these requirements, my audit reports contain the following:

- i. **Report on Financial Statements**, in which I give an audit opinion on whether the financial statements present fairly, in all material respects the financial position and performance of the entity.
- ii. **Report on Lawfulness and Effectiveness in Use of Public Resources**, in which I give a conclusion on whether or not public resources have been applied lawfully and in an effective way.

- iii. **Report on Effectiveness of Internal Controls, Risk Management and Governance**, in which I give a conclusion on whether internal controls, risk management and overall governance were effective.

Audit Opinions

I have expressed different types of audit opinions based on the following criteria:

- i. **Unmodified Opinion**

The books of accounts and underlying records agree with the financial statements and no material misstatements were found. The financial statements present fairly, in all material respects, the operations of the entity. The financial statements with Unmodified Opinion are listed in Appendix A.

- ii. **Qualified Opinion**

Financial transactions were recorded and are to a large extent in agreement with the underlying records, except for cases where I noted material misstatements or omissions in the financial statements. The issues though material, are not widespread or persistent. The financial statements with Qualified Opinion are listed in Appendix B.

- iii. **Adverse Opinion**

The financial statements exhibit significant misstatements with the underlying accounting records. There exists significant disagreement(s) between the financial statements and the underlying books of accounts and/or standards. These problems are widespread, persistent and require considerable interventions by the management to rectify. The financial statements with Adverse Opinion are listed in Appendix C.

- iv. **Disclaimer of Opinion**

The financial statements exhibit serious and significant misstatements that may arise from inadequate information, limitation of scope, inadequacy or lack of proper records such that I was not able to form an opinion on the financial operations. The financial statements with Disclaimer of Opinion are listed in Appendix D.

The key findings noted during the audit of the financial statements for the year ended 30 June, 2023 are highlighted in the ensuing pages.

THE NATIONAL TREASURY – VOTE 1071

EQUALISATION FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2. Non-Compliance with the Constitution

Article 204(1) of the Constitution of Kenya requires that one half per cent (0.5%) of all the revenue collected by the National Government each year, calculated on the basis of the most recent audited accounts of revenue received as approved by the National Assembly, be paid into the Equalisation Fund.

As reported in the previous year, review of the financial statements for the Equalisation Fund for the year ended 30 June, 2023 revealed that only an amount of Kshs.12,400,000,000 out of the expected Kshs.51,586,214,050 of the total entitlement from the financial years 2011/2012 to 2022/2023 had been transferred to the Equalisation Fund Account as tabulated below:

Financial Year	Approved Audited Revenues (Kshs.)	Amount of Equalisation Fund Entitlement (Kshs.)	Amount Transferred to the Fund (Kshs.)
2011/2012	468,151,970,000	2,340,759,850	
2012/2013	529,300,000,000	2,646,500,000	
2013/2014	529,300,000,000	2,646,500,000	
2014/2015	776,900,000,000	3,884,500,000	6,400,000,000
2015/2016	776,900,000,000	3,884,500,000	
2016/2017	776,900,000,000	3,884,500,000	6,000,000,000
2017/2018	776,900,000,000	3,884,500,000	
2018/2019	776,900,000,000	3,884,500,000	
2019/2020	776,900,000,000	3,884,500,000	
2020/2021	1,357,698,000,000	6,788,490,000	
2021/2022	1,357,689,000,000	6,788,490,000	
2022/2023	1,413,694,840,000	7,068,474,200	
Total	10,317,233,810,000	51,586,214,050	12,400,000,000

The National Treasury had not remitted the outstanding balance of Kshs.39,186,214,050 to the Fund as at 30 June, 2023. Further, it is not clear if the Fund will receive the accrued share of revenue tabulated above. Lack of disbursements casts doubt on realisation of the Fund's intended objective of providing basic services to the marginalized areas.

Management has, however, indicated that the Equalisation Fund Appropriation Bill, 2022 was prepared and submitted to the National Assembly to authorise the disbursements of funds due to the Equalisation Fund including the allocation for the 2021/2022 and 2022/2023 financial years, but the Bill had not been passed at the time of the audit.

In the circumstances, The National Treasury was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

3. There were no material issues relating to effectiveness of internal controls, risk management and governance.

CONTINGENCIES FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

5. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

6. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PETROLEUM DEVELOPMENT LEVY FUND (HOLDING ACCOUNT)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

8. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

9. There were no material issues relating to effectiveness of internal controls, risk management and governance.

RURAL ENTERPRISE FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

11. Delay in Winding Up the Fund

I draw your attention to part 9.3 of the financial statements which disclosed that an order for the winding up of the Rural Enterprise Fund was issued by the Minister for Finance, through Legal Notice No.97 of 29 June, 2012 issued vide Kenya Gazette Supplement No.119 dated 14 September, 2012.

As previously reported, The National Treasury had formed a task force on the winding up of dormant funds which included the Rural Enterprise Fund. Further, The National Treasury in consultation with the Attorney General developed a Cabinet Memorandum on winding up of the dormant funds and as a result the Revocation Orders were approved

by the Cabinet. However, there was no evidence provided to prove that the Repeal Act, had been passed by the National Assembly.

In the circumstances, the winding up of the Fund has taken an unduly long time resulting into wastage of public resources.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

12. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

13. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE OFFICERS AND PUBLIC OFFICERS MOTOR CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

14. Unsupported Cash and Cash Equivalents Balance

The statement of financial position reflects a balance of Kshs.540,526,025 in respect of cash and cash equivalents. However, the balance includes an opening balance of Kshs.139,395,452 in respect of lien which as reported in the previous year was not supported by a schedule to indicate what the amount related to, the form and to whom the amount was owed. Management did not provide a cash book, bank statements, bank reconciliation statements or bank confirmation certificate to support the balance.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.540,526,025 could not be confirmed.

Emphasis of Matter

15. Low Uptake of Loans by State Officers and Public Officers

I draw your attention to Part 2(a) on the background information in the financial statements which discloses that the State Officers and Public Officers Motor Car Loan Scheme Fund was established in 2015 through Legal Notice No.195 of 25 September, 2015 and

pursuant to guidelines provided by Salaries and Remuneration Commission on Car Loan benefit for State Officers and Other Public Officers in December, 2014. The Fund has however experienced low response from state officers and public officers which compelled Management to invest in Treasury Bills so that the allocated funds do not lie idle. The disbursed loans balance of Kshs.252,172,936 remains relatively low at 6.6% (2022 - 5%) in comparison to the total current assets balance of Kshs.3,839,194,738 as at 30 June, 2023. The objective and purpose for which the Fund was established may not be achieved.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

16. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

17. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GOVERNMENT CLEARING AGENCY FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

18. Unsupported Fund Balances

As previously reported, the statement of financial position reflects balances of Kshs.300,931,776 and Kshs.52,973,897 in respect of the accounts receivable and accounts payable respectively. The balances relate to opening balances brought forward from 2021/2022 and earlier years. However, the amounts were not supported by ledger, trial balance or any verifiable documents from which the receivables and payables were drawn.

In the circumstances, the accuracy and completeness of the accounts receivable and accounts payable balances of Kshs.300,931,776 and Kshs.52,973,897 respectively could not be confirmed.

19. Delay in Winding Up the Fund

As previously reported, the Fund has been dormant for over eleven (11) years. The National Treasury formed a task force on the winding up of dormant funds which included

the Government Clearing Agency Fund. Further, The National Treasury, in consultation with the Attorney General developed a Cabinet Memorandum on winding up of the dormant funds. This effort resulted to drafting of the Revocation Orders which were approved by the Cabinet and later forwarded to the Attorney General for onward transmission to the National Assembly. Even though the orders were forwarded to the Attorney General on 12 April, 2021 and a resubmission done on 31 March, 2023, evidence was not provided that the Repeal Act had been passed by the National Assembly.

In the circumstances, Management has over the years continued to prepare financial statements for a dormant Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

20. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

21. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

TREASURY MAIN CLEARANCE FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

22. Long Outstanding and Unsupported Balances

As reported previously, the statement of financial position reflects a balance of Kshs.12,503,607,446 and Kshs.12,490,478,941 in respect of accounts receivables and accounts payables – creditors respectively. The balances have been outstanding for a long period of time and have not been supported. Management has stated that the amounts relate to old balances that have been carried forward for many years and that it has submitted a draft revocation order to the National Assembly to wind up the Fund, and the orders had not been acted upon by the National Assembly at the time of audit.

In the circumstances, in the absence of provision for doubtful debts, the recoverability of the long outstanding accounts receivables and the discharge of the creditors could not be confirmed.

23. Unsupported Deficit Balance Brought Forward

As reported previously, the statement of financial position reflects a net financial position (closing fund balance) of Kshs.13,128,505 which consists of a fund balance and deficit brought forward of Kshs.14,000,000 and Kshs.871,495 respectively. However, the balances were not supported by any reconciliation statement.

In the circumstances, the accuracy of the closing fund balance of Kshs.13,128,505 as at 30 June, 2023 could not be confirmed.

Emphasis of Matter

24. Delay in Winding Up of the Fund

As reported previously, the Fund has been dormant for twelve (12) years. The National Treasury formed a task force on the winding up of dormant funds which included the Treasury Main Clearance Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General on the winding up of the Fund.

A Cabinet Memorandum on winding up of the dormant funds was forwarded to the Attorney General in September, 2019 who advised that draft Revocation Orders be prepared on the same. The Revocation Orders were prepared and submitted to the Cabinet for consideration and approval. On 2 March, 2021, the Head of Public Service communicated to the Cabinet approval for Revocation Order of the dormant funds. The Revocation Orders were submitted to the Attorney General's Office for onward transmission to the National Assembly for approval of the winding up of the dormant funds on 12 April, 2021. However, there was no evidence provided to prove that the Revocation Orders had been passed by the National Assembly and the process of winding up of the Fund had not been completed by the time of the audit.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

25. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

26. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA LOCAL LOANS SUPPORT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

27. Unsupported Balances in the Financial Statements

As previously reported, the statement of financial assets and financial liabilities reflects amounts of Kshs.9,045,400, Kshs.6,364,973 and Kshs.71,595,406 in respect of the bank balance, investments at cost and accounts receivables - accrued interest respectively, as at 30 June, 2023. However, the amounts were not supported by ledger, trial balance and schedule of details or any verifiable documents from which the interest is receivable. This constitutes a limitation of scope as none of the balances could be tested for accuracy, completeness or measurement among other tests.

In the circumstances, the accuracy and completeness of the balances could not be confirmed.

28. Delay in Winding Up the Fund

As reported previously, the Fund has been dormant since June, 2006. Review of records revealed that The National Treasury had formed a task force on the winding up of dormant funds which included the Kenya Local Loans Support Fund. Further, The National Treasury, in consultation with the Attorney General developed a Cabinet Memorandum on winding up of the dormant funds. This effort resulted to Revocation Orders which were approved by the Cabinet. However, there was no evidence provided to prove that the Repeal Act had been passed by the National Assembly.

In the circumstances, Management has over the years continued to prepare financial statements for a dormant Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

29. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

30. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

AFRICAN UNION AND OTHER INTERNATIONAL ORGANIZATIONS SUBSCRIPTION FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

32. Multiple Laws Guiding Operations of the Fund

As previously reported, I draw your attention to overview on the Fund's financial statements which indicates that the Fund was established under a Gazette Notice No. 10 of 2017, in exercise of Section 23 of the Public Financial Management Act, 2012. The Public Finance Management (African Union and Other International Organizations Subscription Fund) Regulations, 2017 established the African Union and Other International Organizations Subscription Fund through which Kenya's contributions to African Union and Other International Organizations across all Government agencies were to be paid. Until 2017, the Government through The National Treasury has been paying subscriptions to International Organizations through Vote R53 – Consolidated Fund Services – Subscriptions to International Organizations under various pieces of legislation namely: International Finance Corporations Act, CAP 466, International Development Association Act, CAP 465, Bretton Woods Agreements Act, CAP 464, the African Development Bank Act, CAP 492 and the Multilateral Investment Guarantee Agency Convention, 1988 (Revised 2010).

Previously, the Ministries, Departments and Agencies, (MDAs) had been remitting such subscriptions through their voted provisions within their budgets. The establishment of the African Union and Other International Organizations Subscription Fund therefore rendered all other individual voted provisions to be consolidated and budgeted under one Umbrella body, the African Union and Other International Organizations Subscriptions Fund.

Management has not caused the revocation or repealing of the earlier laws to be in tandem with the current legislation and therefore avert the risk of making multiple payments to the international organizations.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

33. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

34. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PUBLIC SERVICE SUPERANNUATION FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

36. Un-remitted Pension Employer Contributions

The statement of financial position and as disclosed in Note 16 to the financial statements reflects a balance of Kshs.6,843,431,620 in respect of receivables from exchange transactions. The balance includes an amount of Kshs.219,999,201 in respect of employer's contributions that remained outstanding as at 31 July, 2023. This is contrary to Section 8(c) of the Public Service Superannuation Scheme Act, 2012 which states that, not later than ten working days after the end of the month in which the contributions are due, the Government shall remit an amount comprising the member's and the Government's contribution to the custodian.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

37. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PROVIDENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

38. Long Outstanding and Unsupported Other Pending Payables

As previously reported, the statement of financial position reflects a balance of Kshs.9,715,111 in respect to other pending payables. As disclosed in Note 11 to the financial statements, this represented amounts due to National Government entities. However, the supporting documents or analysis for the balance were not provided for audit. The balance has remained outstanding for a long period of time.

In the circumstances, the accuracy and validity of the balance amounting to Kshs.9,715,111 could not be confirmed.

Emphasis of Matter

39. Delay in Winding-Up the Fund

As previously reported, the Provident Fund does not have any surviving beneficiaries as disclosed in Note 7 to the financial statements. However, The National Treasury formed a task force on the winding-up of dormant funds which included the Provident Fund. Further, The National Treasury, in consultation with the Attorney General developed a Cabinet Memorandum on winding-up of the dormant funds. This effort resulted to Revocation Orders which were approved by the Cabinet and subsequently The Provident Fund (repeal) Act, 2022 was assented to on 24 February, 2022. However, there was no evidence provided to prove that Management has started the process of ascertaining outstanding claims by the Fund against any person as per Section 4(b) of the Repealed Act. The winding-up of the Fund has taken an unduly long time.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

40. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

41. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EUROPEAN WIDOWS AND ORPHANS PENSIONS FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

42. Doubtful Recoverability of Receivables

The statement of financial position and Note 9 to the financial statements reflects a balance of Kshs.16,900,000 in respect of receivables. As reported in the previous years, the receivables are in respect of cash owed by the defunct Cereals and Sugar Finance Corporation. The amount has been outstanding for more than eleven (11) years pending conclusion of the winding up process of the Corporation and the Fund may not recover the amount invested resulting to loss of public funds.

In the circumstances, the recoverability of receivables account balance of Kshs.16,900,000 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

43. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

44. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ASIAN OFFICERS FAMILY PENSIONS FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

45. Inaccuracies in the Financial Statements

The Pensions Department uses Pension Management Information System (PMIS) to record transactions and to prepare reports. However, the following discrepancies were noted between the system generated balances and the financial statements;

(i) Items in the PMIS but not in the Financial Statements

Item	Amount (Kshs.)
Other Administrations	81,932
Pension Increase	81,932
Pension Payment	(2,129,409)
Pension Payment	139,163,968
Income and Expenditure	50,554
Interest on Investment	(1,092,798,347)
Interest on Investment	615,755,082
Expenses of Management	10,613,702
Appreciation/Depreciation Account	337,703

(ii) Items in the Financial Statements but not in PMIS

Item	Amount (Kshs.)
Dividend Income	5,998
Other Receipts	76,919
Payment of Pensions	1,021,196
Other Payments	283,646

In the circumstances, the accuracy and completeness of balances reflected in the financial statements could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

46. Idle Funds Held in Bank

The statement of financial position reflects cash and cash equivalents balance of Kshs.451,640,767 and as disclosed in Note 10 to the financial statements. The balance in comparison to the Fund liabilities of Kshs.37,680,788 leaves an amount of Kshs.413,959,979 held at Central Bank of Kenya lying idle contrary to Article 201(d) of the Constitution of Kenya on Principle of Public Finance which states that public money shall be used in a prudent and responsible way.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

47. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ASIAN WIDOWS' AND ORPHANS' PENSIONS FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

49. Impending Winding-Up of the Fund

As previously reported, the Fund has been dormant since June, 2002 when the only surviving beneficiary passed on. The Asian Widows' and Orphans' Pensions (Repeal) Act, 2022 came into effect on 21 March, 2022 allowing Management to commence the winding up process of the Fund in accordance with Regulation 209(2) of the Public Financial Management (National Government) Regulations, 2015 and the Asian Widows' and Orphans' Pensions (Repeal) Act, 2022. As guided by Section 24(9)(c) of the Public Finance Management Act, 2012 and Section 4(e) of the Asian Widows' and Orphans' Pensions (Repeal) Act, 2022, the winding up process, currently ongoing, will culminate in the submission of the Fund's final statement of accounts to Parliament by the Cabinet Secretary, The National Treasury.

However, and as previously reported, the winding up of the Fund has taken an unduly long period of time.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

50. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

51. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR ECONOMIC PLANNING – VOTE 1072

NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

53. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted expenditure of Kshs.47,380,075,252 while actual payments totalled Kshs.27,213,956,448 resulting to an under absorption of Kshs.20,166,118,803 or 43% of the budget.

The under expenditure affected the planned activities and might have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

54. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

55. There were no material issues relating to effectiveness of internal controls, risk management and governance.

WOMEN ENTERPRISE FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

56. Long Outstanding Receivables from Exchange Transactions

The statement of financial position reflects receivables from exchange transactions balance of Kshs.2,911,306,830 as disclosed in Note 17 to the financial statements. The balance includes loans relating to LPO financing of Kshs.17,295,000 and Kshs.2,474,419,644 as amounts due from Constituency Women Enterprise Schemes

(CWES) out of which Kshs.15,704,964 and Kshs.59,166,930 respectively have been outstanding for more than one (1) year contrary to the loans policy of the Fund.

In addition, the balance includes amounts due from eight (8) financial intermediary partners totalling Kshs.71,330,000. However, the financial intermediary partners' loan balance is non-performing and as previously reported, there are ongoing court cases between the Fund and the Intermediaries. No specific provisions by way of bad debt adjustments were made in the financial statements to recognize the impairment.

In the circumstances, the recoverability and completeness of the receivables from exchange transactions balance of Kshs.2,911,306,830 could not be confirmed.

57. Inaccuracy in the Financial Statement

The statement of receipts and payments reflects total expenses of Kshs.534,528,714 and surplus for the period of Kshs.220,889,234 whereas the statement of comparison of budget and actual amounts reflects total expenditure of Kshs.533,695,644 and a surplus for the period of Kshs.220,056,164 resulting to unreconciled variance of Kshs.833,070 respectively.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Emphasis of Matter

58. Uncertainty Related to Going Concern of the Fund

I draw attention to the statement of financial performance indicating that the Fund recorded total revenue and expenditure of Kshs.313,639,480 and Kshs.534,528,714 respectively resulting in a deficit of Kshs.220,889,234. The deficit increased by Kshs.89,923,441 from Kshs.130,965,793 in the year ended 30 June, 2022. The Fund therefore continues to operate at a loss, which, if not managed, may affect its future operations and sustainability of services.

59. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final revenue budget and actual on comparable basis of Kshs.350,770,000 and Kshs.313,639,480 respectively resulting in revenue shortfall of Kshs.37,130,520 or 11% of the budget. Similarly, the statement reflects actual expenditure of Kshs.533,695,644 against an approved budget of Kshs.620,133,581 resulting in an under expenditure of Kshs.86,437,937 or 14% of the budget. Management did not provide justification for the underperformance.

The under-funding and under-expenditure may have affected the operations and planned activities of the Fund and hence impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

60. Unresolved Prior Year Matters

As disclosed under follow-up on the auditor's recommendations on prior year audit issues, various prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided reasons for the delay in resolving the prior year's audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

61. Unbalanced Budget

The statement of comparison of budget and actual amounts reflects budgeted revenue and budget expenditure of Kshs.350,770,000 and Kshs.620,133,581 respectively, resulting in an unbalanced budget of Kshs.269,363,581. This is contrary to Regulation 33(c) of the Public Finance Management (National Government) Regulations, 2015 which states that the budget shall be balanced.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

62. Incomplete Fixed Asset Register

Note 18 to the financial statements reflects a property, plant and equipment balance of Kshs.95,388,966 as at 30 June, 2023. However, review of the fixed assets registers and physical verification of the assets at the head office and the regional offices in Nakuru, Eldoret, Kakamega, Nyeri, Isiolo and Embu revealed that furniture, computers and other equipment of the Fund have not been tagged for ease of identification and tracking.

In the circumstances, the effectiveness of preventative mechanisms put in place by Management to eliminate theft, security threats, losses, wastage, and misuse of assets could not be confirmed.

THE NATIONAL GOVERNMENT AFFIRMATIVE ACTION FUND (NGAAF)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

63. Misstatement of Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment balance of Kshs.188,863,723 and as disclosed in Note 19 to the financial statements. Review of the

fixed asset register and underlying records revealed that the property, plant and equipment balance comprised of motor vehicles, furniture and fittings, computers and other assets at cost values did not have commensurate depreciation charge for use of the assets. This was contrary to Paragraph 49 of the International Public Sector Accounting Standard (IPSAS) 17 on property, plant and equipment which provides for revaluation of property, plant and equipment every three to five years. Further, the assets have not been revalued or depreciation charged to reflect the carrying amount of the property, plant and equipment.

In the circumstances, the accuracy and completeness of property, plant and equipment balance of Kshs.188,863,723 could not be confirmed.

64. Inaccuracies in Cash and Cash Equivalents Balance

The statement of financial position reflects cash and cash equivalents balance of Kshs.1,804,347,961 which includes balances in County Offices of Kshs.68,150,869 as disclosed in Note 17 to the financial statements. Review of the bank reconciliation statements revealed that, included in the reconciling items described as unrepresented cheques as at 30 June, 2023 were stale cheques amounting to Kshs.1,112,267 issued by NGAAF Offices in Kisii County. Further, the bank reconciliation statement for NGAAF Machakos County had long outstanding payments in the cashbook, not in the bank statement (unrepresented cheques) totalling Kshs.7,669,664, out of which, Kshs.3,455,243 related to stale cheques issued in October, 2020.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,804,347,961 could not be confirmed.

65. Inaccuracies in Payables Balance

The statement of financial position reflects payables balance of Kshs.823,700 as disclosed in Note 16 of the financial statements. However, the balance excludes payables' balance of Kshs.12,412,467 owed to suppliers in Kisii County indicated under the supplementary disclosure Note 16 to the financial statements. Management did not provide a satisfactory explanation for the failure to settle the bills during the year they occurred.

In the circumstances, the accuracy and completeness of the payables balance of Kshs.823,700 could not be confirmed.

Emphasis of Matter

66. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects the final receipt budget and actual on a comparable basis of Kshs.2,186,000,000 and Kshs.2,186,764,178 respectively resulting in an overfunding of Kshs.764,178. Similarly, the Fund spent an amount of Kshs.980,703,627 against an approved budget of Kshs.2,240,822,627 resulting in an under-expenditure of Kshs.1,260,119,000 or 56 % of the budget.

The overfunding and the under-expenditure affected the planned activities of the Fund and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

67. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. Although, the Management has indicated that some of the issues have been resolved under progress on follow up of auditor's recommendation section of the financial statements, the matters remained unresolved as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

68. Irregular Purchase of Umbrellas

The statement of financial performance reflects transfers to other Government units - Counties expenditure of Kshs.822,922,848, as disclosed in Note 8 to the financial statements. The funds were disbursed to Counties on quarterly basis for various projects based on Board approved projects and NGAAF Fund Access Guidelines, 2021. Review of Approved Second Quarter of 2022-2023 Ref: MPSGAA/SDGAA/NGAAF/7 of 30 March, 2023 for Countywide projects, No. 3 indicated that the Board approved for Nakuru County to buy nine hundred and twenty (920) umbrellas at a total cost of Kshs.3,628,480. However, according to the NGAAF Fund Access Guidelines, 2021, each County is allowed to buy a maximum of two hundred (200) umbrellas only. No explanation was provided for purchase of the excess 720 umbrellas worth Kshs.2,839,680. Further, Kilifi and Mombasa Counties exceeded the limit of 200 umbrellas set out in the Guidelines by one hundred twenty (120) and three hundred and fifty (350) resulting in an irregular over-expenditure cost of Kshs.1,000,000 and Kshs.1,718,250 respectively.

In the circumstances, the propriety of the expenditure totalling Kshs.5,557,930 could not be confirmed and the Management was in breach of the NGAAF Fund Access Guidelines on the funds.

69. Failure to Implement E-Procurement Processes

During the year under review, the Fund carried out procurement of goods and services outside the e-Procurement Module. This was contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State portal. Further, Executive Order No. 2 of 2018 iv (b) which directed all accounting officers to ensure that beginning 1 January, 2019, all Public Procuring Entities shall undertake all their procurements through the e-Procurement Module on IFMIS. The NGAAF Management also did not publicize all ongoing contracts entered into contrary to

Executive Order No. 2 of 2018 (f) which required all public procuring entities to publish all ongoing contracts entered into before finalization of expected works, suppliers or services pending completion and final payments.

In the circumstances, Management was in breach of the law and government policy on e-procurement.

70. Non-Adherence to NGAAF Policies and Fund Access Guidelines

Review of Fund records provided revealed that the Fund did not update the registered list of suppliers during the year under review. This was contrary to Paragraph 57 of the NGAAF Fund Access Guidelines, 2021, which states that the procuring entity shall maintain and update the list of registered suppliers in categories of goods, works and services according to its procurement needs. Further, the NGAAF County Offices did not provide reports on pending payments to NGAAF headquarters for the financial year ending 30 June, 2023. In addition, the Management did not operationalize completed Rescue and Counselling Centres in various Counties.

In the circumstances, the Fund Management was in breach of the law.

71. Non-Compliance with Gender Rule in Employment

During the year under review, the total number of employees of the Fund was eighty (80), out of whom sixty-four (64) or 80% of the total number were of male gender. This was contrary to the Public Service Commission Human Resource Policies and Procedures Manual, 2016 which provides that the Government will endeavour to have a balanced civil service by ensuring that not more than two-thirds (2/3) of the positions in the establishment are filled by either gender.

In the circumstances, Management was in breach of the law.

72. Irregularities in Recruitment of NGAAF County Coordinators

During the year under review, the Fund recruited forty-five (45) County Coordinators to fill vacant positions on a three-year contract effective 1 July, 2023. However, the following anomalies were noted:

72.1 Lack of an Updated Human Resource Plan and Human Resource Management Advisory Committee (HRMAC)

The National Government Affirmative Action Fund had not updated Human Resource Plan contrary to Paragraph 2.15.1 of the NGAAF Human Resource Policy and Procedure Manual which states that, the CEO shall ensure the development of a Human Resource plan based on comprehensive job analysis, which shall be reviewed every year to address emerging issues and needs. Further, the CEO did not constitute a Human Resource Management Advisory Committee (HRMAC) for the Fund. This was contrary to Paragraph 2.14.1 of the NGAAF Human Resource Policy and Procedure Manual which states that, the CEO shall constitute a Human Resource Management Advisory Committee (HRMAC). The Committee's advisory services include management of the recruitment process, constituting the interview panel, the appointment of their

representatives to the interview panel and compiling reports among other functions. As a result, the recruitment process was in breach of the NGAAF policies.

72.2 Lack of Board's Approval of the List of Selected Candidates for Interview

The Shortlisting Committee's terms of reference required the Committee to prepare and submit a shortlisting report to the Chief Executive Officer for the Board's adoption. Although the Committee prepared and submitted a shortlisting report to the Chief Executive Officer through Internal Memo MPSGAA/SDGAA/NGAAF/2 dated 26 May, 2023 containing 235 candidates shortlisted, the report was not signed by the Shortlisting Committee Members to confirm ownership and authenticity of the shortlisted candidates. Further, no Board meeting minutes were provided for audit review indicating that the shortlist was adopted or ratified by the Board.

72.3 Failure to Declare Conflict of Interest

There was no documentary evidence indicating that the Shortlisting and Interviewing Committees signed a declaration whether members of the Shortlisting and Selection Committees or the interview panels had any conflict of interest in the recruitment process. This was contrary to Paragraph 2.16.3 of the NGAAF Human Resource Policy and Procedure Manual 2023. In the absence of the declaration, the integrity of the process may have been compromised.

72.4 Irregular Participation of an Intern in the Interview and Selection Panel

Review of the interview score sheets revealed that the interview panel included a human resource intern. The intern was not appointed as a member of the Interviewing and Selection Committee but participated in the interview process as a panelist, awarded scores and signed the interview score sheets. It was also not explained why the intern or junior staff could interview a person for a higher position than the interviewer.

72.5 Irregularities in Ranking and Selection of Candidates

Re-computation of the average scores recorded in the interview report from the score sheets reflected errors as tabulated below;

	County	Applicant	Interview Report Average	Recomputed Average
1	Mombasa	A	55.8	53.3
2	Tana River	B	60.3	47.8
3	Samburu	C	26.8	33.5
4	Siaya	D	53.4	50.5

As indicated above, in the interview report for the candidate 2 who applied to be County Coordinator-Tana River County, had scored an average of 47.8, re-computed from the score sheets. However, during the ranking, the applicant was awarded an average of 60.3 marks making him rank number 1 and was subsequently appointed as the County Coordinator for Tana River County. Had the anomaly not occurred, the second-ranked applicant who had 56.6 marks would have been top-ranked applicant and therefore appointed instead of the person picked by the Selection Committee.

Further, a scrutiny of the interview and selection report revealed instances of biased hiring practices. In Homa Bay County, candidate 2 was chosen instead of the best-ranked candidate without justification on why the best-rank candidate was not recommended for appointment. Evaluation of the score sheets revealed the following ranking and selection:

Candidate	Average Score (%)	Ranking by Selection Panel
A	67	1
B	62	2
C	60.25	3
D	47.5	4
E	30.25	5

72.6 Failure to Fill Vacant Positions

Records indicated that the advertisement called for interested candidates to fill the forty-seven (47) vacant positions for all the Counties in Kenya. Management, however, did not conduct interviews for Isiolo County. In addition, the Management discarded the interview scoring for Nyeri County and retained Gender officers from the State Department for Gender who were serving in the positions.

The Selection Committee recorded the interview scores and ranking for Nyeri County as follows:

Candidate	Scores	Ranking
A	68.5	1
B	60.5	2
C	45	3
D	30.75	4
E	30.25	5

Records indicated that the successful candidate for Makueni County was rejected by the County Patron in writing and stated her preferred candidate who was ranked second and subsequently appointed as the County Coordinator. This was contrary to the provisions of the Human Resource Policy and Procedure Manual, which states that staff are recruited based on merit after undergoing a recruitment exercise and not based on personal preferences.

72.7 Failure to Sign Report

Four interviewing panel members and the secretary to the Committee signed the panel report, while one member did not sign the report. This was contrary to Paragraph 2.17.5 of the NGAAF Human Resource Policy and Procedure Manual 2023, which provides that the panel members shall sign the report and the secretary of the committee shall submit the report to the CEO within twenty-one (21) working days from the last date of the interview. No justification or dissenting opinion by the member was provided for confirmation.

72.8 Failure to Recruit Persons Living with Disabilities

Analysis of the long list of applicants for the County Coordinator position indicates that twenty-seven (27) persons living with disabilities applied for the job, out of which, the shortlisting panel picked only four who were shortlisted for the interview but none were appointed. A review of interview scores revealed that the candidate for Homa Bay County scored 60.25% and met the pass mark of 60%. However, the Committee did not recommend the candidate to be considered for appointment. This was contrary to Article 54(2), which states that the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities. Further, Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one-third of its staff from the same ethnic community.

72.9 Anomalies in Appointment and Deployment of County Coordinators

During the year under review, the Fund did in appointment and deployment of the County Coordinators. However, the report of the interview for the County Coordinators was signed on 20 July, 2023 by the interview and selection panel list and subsequently, the candidates recommended for appointment were issued with offer of appointment letters on 27 July, 2023. However, the Board did not ratify the appointments.

Further, no offer of appointment letters were issued to the candidates selected for the Nakuru and Wajir Counties. Further, no appointment letters or contracts were issued and kept in the candidates' files. This was contrary to Paragraph 2.22.2 of the NGAAF Human Resource Policy and Procedure Manual 2023 which states that the employee will be required to acknowledge the letter of appointment and append his signature before or on the date of engagement. A copy of the letter shall be placed in the personal file.

In addition, background checks for the appointed County Coordinators were not performed. This was contrary to Paragraph 2.17.3 of the NGAAF Human Resource Policy and Procedure Manual 2023 which states that the Fund shall conduct background checks for candidates to be recruited.

In the circumstances, Management was in breach of the law and the regularity of the recruitment of County Coordinators, could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

73. Corporate Governance and Risk Management

Review of the Fund internal controls, governance and risk management strategies revealed the following weaknesses:

- (i) The Board Performance evaluation was not submitted to the State Corporations Advisory Committee (SCAC).

- (ii) The Fund Board and Management did not implement some of the strategic proposals in the NGAAF Strategic Plan 2018/2019 to 2022/2023.
- (iii) The Audit Committee met only once instead of the recommended four times during the year under review contrary to Section 179(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Audit Committee shall meet at least once every three months.
- (iv) The Fund did not have Approved instruments to guide its operations such as an Approved Communication Policy, Staff Welfare Policy, Approved ICT Policy and Asset Management Policy.
- (v) The Fund did not have structures and guidelines for management of Fund activities and assets during transition period when there is change of County patrons or County coordinators leading inefficiencies in fund operations and assets are prone to misuse.

In the circumstances, the effectiveness of the internal controls, risk management and overall governance at the Fund could not be confirmed.

74. Failure to Automate Fund Operations

Review of the Fund operations revealed that the Fund uses manual systems to prepare its financial records in the form of spreadsheets instead of an Enterprise Resource Planning (ERP) system approved by The National Treasury. The manual system requires human intervention and is prone to errors and fraud.

In the circumstances, the effectiveness of the internal controls, risk management and overall governance at the Fund could not be confirmed.

75. Lack of Agreements on Storage of Goods at the Counties

Review of mechanisms put in place by the Fund Management to safeguard assets from loss or misuse, it was noted that most of the NGAAF county offices were using privately owned facilities instead of public facilities for storage of assets such as tanks, tents, mattresses and car wash machines before distribution of the items to the respective beneficiaries. However, the Fund did not sign lease agreements with the private firms or individuals for the duration the assets are kept at the private properties.

In the circumstances, the security of the NGAAF assets could not be confirmed.

76. Non-Compliance with the Approved Human Resource Plan

The staff establishment of the Fund sets the authorized number in post employees at two hundred and eighty-one (281). However, the number in-post during the year was sixty-one (61) employees resulting in an understaffing of 220 employees. A detailed review of the establishment also indicates understaffing in various departments and carders. Management explained that the understaffing was due to lack of adequate funding, and effort is being made to source more funds from The National Treasury.

STATE DEPARTMENT FOR INTERIOR AND CITIZEN SERVICES - VOTE 1021

NATIONAL HUMANITARIAN FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

78. Dormant Bank Accounts

Review of records provided for audit and as reported in the previous year, the Fund operated four commercial bank accounts and one account at Central Bank which were established for the purpose of disbursing grants to Internally Displaced Persons (IDPs) under the Cash Payment Programme. Examination of the bank statements revealed that the bank accounts have been dormant for over three years and holding idle funds totalling Kshs.272,621,262 despite the conclusion of disbursement of grants to IDPs under the Cash Payment Programme and the provision of Section 16(2) of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012. The Act provides that the Accounting Officer may, with the approval of the Cabinet Secretary for the time being responsible for finance, invest or place on a deposit interesting earning account any of the moneys of the Fund and any interest earned on moneys so invested or deposited shall be placed to the credit of the Fund.

In the circumstances, the effective use of the Fund's resources could not be confirmed.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

79. Non-Functioning Fund Committee

As reported in the previous year, although the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012 prescribes the Fund Administration procedures including the composition and functions of the Committee and Secretariat, there was no evidence in form of minutes to indicate that the Committee deliberated on the matters of the Fund and directed its administration in the year under audit as provided for under the Act. Further, no evidence was provided of an active Secretariat as provided for in the enabling Act.

In the circumstances, the adequacy and effectiveness or otherwise of risk management and oversight over the Fund could not be confirmed.

GOVERNMENT PRESS FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

80. Long Outstanding Debtors

The statement of financial position reflects receivables from exchange transactions balance of Kshs.563,098,185 as disclosed in Note 10 to the financial statements. This includes long outstanding debts amounting to Kshs.475,448,391 that have been outstanding between 2017 and 2022 and whose recovery is doubtful. However, no provision for bad and doubtful debts has been made in the financial statements for the long outstanding debts.

In the circumstances, the recoverability and fair presentation of the receivables from exchange transactions balance of Kshs.475,448,391 could not be confirmed.

81. Cash and Cash Equivalents

The statement of financial position reflects cash and cash equivalents balance of Kshs.256,465,340 as disclosed in Note 8 to the financial statements. This includes postal money orders amounting to Kshs.7,322,640 owed by Postal Corporation of Kenya. The amount related to payments made for services rendered by the Fund for the period between 1 July, 2019 and 30 June, 2023 which had not been cashed.

In the circumstances, the recoverability and fair presentation of the cash and cash equivalents balance of Kshs.7,322,640 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

82. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

83. Lack of an Integrated Print Production Management System

Review of the Government Press Fund production department revealed various production phases and involved other departments such as handling customer orders, plans production, and engineering. However, the Management did not have an integrated

management system to manage the print production which include estimating & quoting, scheduling, order entry and job tracking, raw material inventory, shop floor data collection.

In the circumstances, it was also not possible to have real time tracking of the customer orders in the production that will enhance efficiency in the production, process and decision making.

STATE DEPARTMENT FOR CORRECTIONAL SERVICES – VOTE 1023

PRISON INDUSTRIES REVOLVING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

84. Unsupported and Undisclosed Cash and Cash Equivalents Balances

The statement of financial position reflects cash and cash equivalents balance of Kshs.12,172,571. However, as previously reported, one cash book and a single bank account were maintained in the year under review for recording of financial transactions for both the Prison Farms Revolving Fund and the Prisons Industries Revolving Fund, yet the two (2) Funds are distinct and prepare separate sets of financial statements. Review of records revealed that the two Funds' monies were commingled hence making it difficult to distinctly identify revenues earned by each specific Fund and in some instances, expenses were made through the same payment voucher.

Further, the bank reconciliation statement provided for the Fund, as at 30 June, 2023, reflected payments in cashbook not in bank statement amounting to Kshs.4,854,869 out of which Kshs.4,472,779 related to long outstanding payments and which were yet to be reversed in the cashbook as at the close of the financial year. Review of the bank reconciliation statement also revealed that there were receipts amounting to Kshs.2,755,667 which had taken long before being recorded in cash book. No explanation was provided for not clearing the long outstanding bank reconciliation items.

In addition, available records revealed that there was a revenue collection account held at a local bank. However, the balance in the account was not included in the statement of financial position or disclosures made in the Notes to the financial statements on cash and cash equivalents, while bank reconciliation statements for the account were not provided for audit.

In the circumstances, the accuracy, completeness, and existence of the cash and cash equivalents balance of Kshs.12,172,571 could not be confirmed.

85. Long Outstanding Debtors

The statement of financial position reflects a balance of Kshs.223,988,668 in respect of receivables from exchange transactions as disclosed in Note 13 and Appendix III to the financial statements. The balance includes an amount of Kshs.164,475,904 relating to supply of number plates to National Transport and Safety Authority (NTSA) which remained unpaid despite various correspondences including demand notes by the State Department for Correctional Services to the NTSA Management. Further, the balance includes an amount of Kshs.20,318,827 reflected as imprest or payment vouchers to the Commissioner General for undated periods and whose reasons for non-surrender were not been provided for audit.

In addition, the schedule provided for audit includes an amount of Kshs.77,760 whose details were not included for verification. There was no ageing analysis or debt recovery policy provided for audit to ascertain the recoverability of the outstanding debtors.

In the circumstances, the accuracy and recoverability of the outstanding debtors balance of Kshs.223,988,668 could not be confirmed.

Emphasis of Matter

86. Material Uncertainty Related to Going Concern (Sustainability of Services)

I draw attention to Note 5 to the financial statements which discloses that if the motor vehicle number plates production is transferred to National Transport and Safety Authority (NTSA) or any other Government entity, the sustainability of services of the Fund shall be adversely affected. As at 30 June, 2023, number plates worth Kshs.11,039,374 remained in stock and a further amount of Kshs.164,475,904 in respect of debts owed by NTSA as disclosed in Appendix III to the financial statements remain outstanding. These conditions indicate that a material uncertainty exists which may cast significant doubt on the Fund's ability to continue to sustain services.

87. Budgetary Control and Performance

I draw attention to the statement of comparison of budget and actual amounts which reflects a final revenue budget amount of Kshs.627,202,598 and an actual on comparable basis amount of Kshs.203,033,776 resulting to under collections of Kshs.424,168,822 or 68% of the budgeted revenue. Similarly, the statement reflects final budget recurrent expenditure amount of Kshs.611,400,045 against an actual on comparable basis expenditure of Kshs.193,486,235 resulting to an under-expenditure of Kshs.417,913,810 or 68% of the budgeted expenditure. Management has not provided an explanation for the under-collection of revenue and under-expenditure.

The under collection of revenue and the under-expenditure affected the operations of the Fund and may have impacted negatively on service delivery to the public.

My opinion is not qualified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

88. Underfunding of Prison Industries

An audit inspection carried out in a sample of Prison Industries stations during the year under review, revealed that Naivasha station was issued with funds amounting to Kshs.2,660,000 while Nyahururu station did not receive any funds. Further, the stations had various challenges including old and dilapidated tools and machinery, high cost of raw materials, and inability to pay for the trade tests for the inmates who were trained.

In the circumstances, the funding inadequacy affects the operations of the Fund and delivery of services to the Public.

89. Failure to Use Information Technology in Finance and Procurement Departments

The Fund began operations on 01 July, 1987 vide Legal Notice No.314 of the Exchequer and Audit Act (Prison Industries Fund) Regulations, 1988. The Fund is yet to automate its operations especially financial reporting and procurement of goods and services. The transaction processing, ledgers and financial statements are performed manually to date.

In addition, the Fund is yet to implement the e-procurement system for managing the procurement processes. This is contrary to Regulation 54 of the Public Procurement and Assets Disposal Regulations, 2020 which states that The National Treasury shall ensure that all procuring entities are registered into the e-procurement system and that they have their respective facilities to carry out different activities of initiating the procurement process, annual procurement plan preparation, procurement document preparation, evaluation, professional opinion, contract award, contract management, internal procurement process, workflow management, tracking payments, deliverables and other processes through the available features and modules of the e-procurement system.

In the circumstances, the Management was in breach of the regulations.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

90. Outstanding Scrap Machinery Balances

The statement of financial position reflects property, plant and equipment balance of Kshs.89,111,585 as disclosed in Note 15 to the financial statements. This includes an amount of Kshs.2,926,440 relating to scrap machinery which has appeared in the financial statements over a number of years. Management has not indicated the plans in place to dispose of the assets to avoid any further deterioration.

In the circumstances, the effectiveness of controls related to asset management could not be confirmed.

PRISON FARMS REVOLVING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

91. Unsupported Cash and Cash Equivalents

The statement of financial position reflects cash and cash equivalents balance of Kshs.38,397,632 as disclosed in Note 11(a) to the financial statements. However, as reported in the previous year, one cash book and a single bank account was maintained in the year under review for recording of financial transactions for both the Prison Farms Revolving Fund and the Prisons Industries Revolving Fund, yet the two (2) Funds are distinct and prepare separate sets of financial statements. It was also observed that

payments made were commingled and hence making it difficult to distinctly identify and apportion revenues earned by each specific Fund.

In the circumstances, the accuracy, completeness, and existence of the reported cash and cash equivalents of Kshs.38,397,632 could not be confirmed.

92. Long Outstanding Debtors

The statement of financial position reflects Kshs.89,710,743 in respect of receivables from exchange transactions as disclosed in Note 12 to the financial statements which includes Kshs.17,584,345 relating to long outstanding debtors dating back to the year 2014. No explanation was provided why the amount had been outstanding for long and what efforts were undertaken to pursue the debtors and recover the said amounts.

In the circumstances, the recoverability of the outstanding debtors amounting to Kshs.17,584,345 could not be confirmed.

Emphasis of Matter

93. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final revenue budget amount of Kshs.318,595,000 and an actual on comparable basis amount of Kshs.151,539,251 resulting to under collections of Kshs.167,055,749 or 52% of the budgeted revenue. Similarly, the statement reflects final budget expenditure amount of Kshs.297,447,241 against an actual on comparable basis expenditure of Kshs.145,868,473 resulting to an under expenditure of Kshs.151,578,768 or 51% of the budgeted expenditure. Management has not provided justification for the underperformance and suppressed expenditure.

The under collection of revenue and suppressed expenditure may affect the operations and hence negatively impacting planned activities of the Fund.

Other Matter

94. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref AG.3/88/2 Vol. VII (20) dated 11 May, 2022.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

95. Delay in Disposal of Assets

The statement of financial position reflects a balance of Kshs.187,463,796 in respect of property, plant and equipment as disclosed in Note 17 to the financial statements which

includes a balance of Kshs.1,096,300 relating to scrap machinery. The balance of Kshs.1,096,300 has continually appeared in the financial statements and no plans to dispose the assets have been made. Further, during an audit inspection at Nyandarua Prison Farm in the month of July, 2023 it was observed that the Farm had a grounded tractor that has been lying idle without being repaired and hence has continued to deteriorate in value.

Management has not tried to dispose off the assets as required in Regulation 176 (1) of Public Procurement and Asset Disposal Regulation, 2020 which requires an accounting officer of a procuring entity to ensure that an annual assets disposal plan is prepared for items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment as set out under Section 53(4) of the Act.

In the circumstances, Management was in breach of the law.

96. Failure to Use Information Technology in Finance and Procurement Departments

The Prison Farms Revolving Fund was established by Legal Notice No.87 of the Exchequer and Audit Act (Cap 412) Regulations, 1993 and was deemed to be operational from 1 July, 1992. As reported in the previous period, the Fund, despite being in operation for 30 years is yet to automate its operations especially for purposes of financial reporting and procurement of goods and services. The transaction processing, ledgers and financial statements are done manually.

Further, the Fund is yet to implement e-procurement for managing the procurement processes as required by Regulation 49 (2) of the Public Procurement and Asset Disposal Regulations, 2020 and the Executive Order No.2 of 2018. Management has not provided explanation for failure to automate its operations.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

97. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR DEVELOPMENT OF THE ARID AND SEMI-ARID LANDS – VOTE 1035

NATIONAL DROUGHT EMERGENCY FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

99. Seed Capital

During the year under review, the Fund received a cumulative amount of Kshs.463,300,000 against a seed capital of two (2) billion shillings provided for in Regulation 4(1) of the National Drought Emergency Fund Regulations, 2021 which requires the initial capital of the Fund to be two (2) billion shillings appropriated by Parliament.

In the circumstances, the delayed release of the seed capital may affect the optimal implementation of the envisaged drought risk management actions.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

100. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR ROADS – VOTE 1091

MECHANICAL AND TRANSPORT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

101. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following unsatisfactory matters:

- i) The statement of financial position reflects inventories balance of Kshs.26,477,661 as disclosed in Note 14 to the financial statements. However, the trial balance provided for audit reflects an amount of Kshs.24,097,900 while the supporting ledger reflects a balance of Kshs.24,143,905. The resultant variances between the three records have not been reconciled.

Further, inventory balance includes spare parts and meter balance of Kshs.22,191,989 which includes a Komatsu item with an amount of Kshs.2,189,868. However, re-computation of the item resulted in a balance of Kshs.2,235,875. The resultant variance of Kshs.46,007 has not been reconciled.

- ii) The statement of cash flows reflects net increase in cash and cash equivalents amount of Kshs.4,211,041. However, a re-computation of the amount indicated a balance of Kshs.13,565,113 resulting in unreconciled variance of Kshs.9,354,072.
- iii) The statement of financial performance reflects expenditure on administrative expenses of Kshs.55,144,821 as disclosed in Note 9 to the financial statements. The amount includes expenditure on general office supplies of Kshs.5,996,771 which differs from supporting ledger amount of Kshs.6,076,770 resulting in unreconciled variance of Kshs.79,999.

In the circumstances, the accuracy and completeness of balances reflected in the financial statements could not be confirmed.

102. Receivables from Non-Exchange Transactions Balance

The statement of financial position reflects current receivable from non-exchange transactions balance of Kshs.92,902,694 which, as disclosed in Note 13 to the financial statements includes an amount of Kshs.48,710,152 owed by Kisii County Government. As previously reported, the amount has remained outstanding from the financial year 2018/2019. However, during the year under review, the County Government of Kisii had acknowledged an amount of Kshs.48,000,000 as the balance owed to the Fund resulting to an unreconciled variance of Kshs.710,152.

Further, the balance of Kshs.92,902,694 includes an amount of Kshs.36,337,417 owed by the defunct Nairobi Metropolitan Services (NMS). In addition, the Fund had no debt collection policy.

In the circumstances, the accuracy, completeness and recoverability of the receivables balance Kshs.92,902,694 could not be confirmed.

103. Inaccuracies in Property, Plant and Equipment Balance

As disclosed in Note 15 to the financial statements, the statement of financial position reflects property, plant and equipment with a Net Book Value of Kshs.3,420,988,046. Review of records revealed the following inaccuracies:

- (i). Note 15 to the financial statements reflect property, plant and equipment with historical cost of Kshs.6,812,061,480 as at 30 June, 2023. However, the master inventory revealed that there were assets worth Kshs.3,454,186,802 which had been transferred to various County Governments but were included in the master inventory. It was further observed that assets worth Kshs.1,259,249,662 were sold or disposed but were still maintained in the master inventory.
- (ii). The master inventory revealed that there were five excavators and two Zoomlion Dozers with a total value of Kshs.121,000,000. However, the records did not indicate the registration numbers of the equipment hence it was not possible to verify the existence and ownership of the assets.
- (iii). The property, plant and equipment schedule reflect a depreciation charge for the year of Kshs.255,620,992. However, the depreciation workings provided for audit revealed charge for the year of Kshs.254,388,928 resulting in an unreconciled variance of Kshs.1,232,064.
- (iv). The depreciation rates applied were not clearly stated or disclosed in the financial statements. Further, the depreciation workings reflect depreciation charge of Kshs.7,011,768. However, there were no details or a breakdown of the specific assets.
- (v). The historical costs brought forward for the old assets were not supported with accurate schedules and could not be verified.

In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.3,420,988,046 could be confirmed.

104. Unauthorized Over-Expenditure on Fuel, Oil and Lubricants

The approved budget reflects a budgeted expenditure of Kshs.16,000,000 for refined fuel and lubricants. However, Note 8 to the financial statements indicates that the Fund spent an amount of Kshs.45,781,815 on fuel for both the operations and projects components, thus resulting to an over-expenditure of Kshs.29,781,815. Further, the Fund had a budgeted expenditure of Kshs.23,486,458 for oil and lubricants but spent an amount of Kshs.11,044,096 resulting to under expenditure of Kshs.12,442,362. The Fund incurred an overall over-expenditure of Kshs.17,339,453 on fuel, oils and lubricants. Management did not explain or provide an approval for the over-expenditure on the two items. This is contrary to Regulation 54 (1) of the Public Finance Management (National Government) Regulations, 2015 which states that except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities

In the circumstances, the regularity of the expenditure on fuel, oils and lubricants could not be confirmed.

Emphasis of Matter

105. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.780,825,553 and Kshs.284,563,461 respectively, resulting in a revenue shortfall of Kshs.496,262,092 or 64% of the budget. Similarly, the Fund spent an amount of Kshs.273,270,635 against an approved budget of Kshs.780,825,554 resulting in an under expenditure of Kshs.507,554,919 or 65% of the budget.

The under-collection of revenue and under-expenditure affected the planned activities of the Fund and may have impacted negatively on service delivery to the public.

106. Poor Financial Performance

During the year under review, the Fund reported a deficit of Kshs.244,328,166 (2021/2022 deficit - Kshs.128,695,987) resulting in depletion of accumulated reserves from Kshs.1,497,912,883 as at 1 July, 2022 to Kshs.1,253,584,717 as at 30 June, 2023. Management did not disclose strategies put in place to reverse the unfavourable trend which has been there for the last five (5) years and if not addressed appropriately, may adversely affect the Fund's sustainability of services

My opinion is not modified in respect of these matters.

Other Matter

107. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

108. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

109. Non-Compliance with Authorized Staff Establishment

As previously reported, review of the Fund's authorized staff establishment revealed that in-post staff in various cadre were one thousand and seventy-three (1,073) against an authorized establishment of two thousand, six hundred and ninety-five (2,695) resulting

in a shortage of one thousand, six hundred and twenty-two (1,622) staff members.

In the circumstances, the Fund lacked the requisite staffing levels to be able to run the day-to-day activities thereby adversely affecting delivery of its mandate.

110. Poor Management of Assets

Review of assets inventory records revealed the following unsatisfactory matters:

- (i). The master inventory does not have unique identifiers for property, plant and equipment in the form of tagging which is used for the identification of specific assets to facilitate their accountability and monitoring. Record did not indicate the registration number of the supervisory vehicles, trucks, plants and equipment.
- (ii). The Fund occupies various parcels of land with building and structures which have not been disclosed in the financial statements. Management explained that the Fund did not have titles for the land and therefore the land and buildings could not be valued. It is not clear why the land has not been registered and what action Management intends to take to rectify the anomalies.

In the circumstances, the existence of an effective mechanism to safeguard assets could not be ascertained.

ROADS ANNUITY FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

112. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted receipts amount of Kshs.1,590,000,000 against actual receipts amount of Kshs.1,590,000,000 or 100% of the budget. However, the statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.7,681,000,000 and Kshs.4,046,522,925 respectively, resulting to an under expenditure of Kshs.3,634,477,075 or 47% of the budget.

The underperformance affected the planned activities of the Fund and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

113. Unresolved Prior Year Matters

In the audit report of the previous year, some issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness

of Internal Controls, Risk Management and Governance. However, the Management has not given any explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

114. Delay in Implementation of Projects

Review of records revealed that the State Department for Roads had planned to implement four (4) other Lots (Roads) under the Roads Annuity Fund amounting to 290KM as follows:

- (i). Lot 3-Modogashe-Habaswein-Smatar and Rhamu-Mandera Roads-143KM
- (ii). Lot 32-Illasit-Njukini-Taveta Road-67KM
- (iii). Lot 15-Identified roads in Nyeri, Kirinyaga, Murang'a, Embu, Tharaka Nithi; Laikipia-45KM
- (iv). Lot 18- Identified town roads in Kakamega, Vihiga, Bungoma, Busia-35KM

Further, available records revealed that, Lot 3 and Lot 32 roads, whose implementing Agency was Kenya National Highways Authority (KeNHA), had delayed in commencement of construction. This was further discussed during the 14th Roads Annuity Oversight Committee meeting held on 20 April, 2023 and which resolved that, a letter be done by the State Department for Roads to the Attorney General to advice on the termination of Lot 3 and Lot 32 due to envisaged high costs. Management provided the letter to the Attorney General (AG) and the legal advisory by the AG on Lot 32 road project dated 30 October, 2023 and 6 November, 2023 respectively. However, the letter by the State Department and the legal advisory related to Lot 3 road project was not provided for audit.

In the circumstances, the continued delay in commencement of construction of Lots 3 and 32 road projects denies services to the public and value for money on the two projects may not be achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

115. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR TRANSPORT – VOTE 1092

RAILWAY DEVELOPMENT LEVY FUND (HOLDING ACCOUNT)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

116. Failure to Reconcile Receipts from Kenya Revenue Authority

The statement of financial performance reflects receipts from Kenya Revenue Authority (KRA) of Kshs.39,896,226,652 as disclosed in Note 6(a) to the financial statements. However, confirmation of receipts from KRA to the Fund indicate that the Authority transferred a total of Kshs.39,899,400,353 resulting in an unexplained and unreconciled difference of Kshs.3,173,701.

In the circumstances, the accuracy and completeness of transfers from Kenya Revenue Authority of Kshs.39,896,226,652 could not be confirmed.

Emphasis of Matter

117. Budgetary Control and Performance

I draw attention to the statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.56,075,712,597 and Kshs.39,896,226,652 respectively, resulting in a revenue shortfall of Kshs.16,199,485,945 or 29% of the budget. Similarly, the Fund spent an amount of Kshs.28,173,372,446 against an approved budget of Kshs.56,075,712,597 resulting in an under-expenditure of Kshs.27,922,340,151 or 50% of the budget.

The under-collection of revenue and under-expenditure affected the planned activities of the Fund and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

118. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements. However, Management did not provide any explanation on how the issues were subsequently resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

119. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

120. There were no material issues relating to effectiveness of internal controls, risk management and governance.

**STATE DEPARTMENT FOR HOUSING AND URBAN
DEVELOPMENT – VOTE 1094**

CIVIL SERVANTS HOUSING SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

121. Long Outstanding Receivables

121.1 Current Portion of Receivables from Exchange Transaction

The statement of financial position reflects a balance of Kshs.497,012,310 in respect of current portion of receivables from exchange transactions as disclosed in Note 17(a) to the financial statements. Included in this amount is Kshs.109,647,558 and Kshs.360,511,952 in respect of amounts owed by the Principal Secretary, State Department for Lands and rent and service charge arrears respectively that has been outstanding for over ten (10) years. In addition, no provision for bad and doubtful debts has been made in the financial statements.

121.2 Long Term Receivables from Exchange Transaction

The statement of financial position reflects long term receivables from exchange transactions amount of Kshs.7,167,222,242 as disclosed in Note 17(b) to the financial statements. Although Management provided demand letters issued to the defaulters, the amount remained outstanding as at 30 June, 2023.

In the circumstances, the full recoverability of the long outstanding receivables could not be confirmed.

122. Long Outstanding Bank Reconciliation Statements Items

The statement of financial position reflects a balance of Kshs.2,969,479,686 in respect of cash and cash equivalents as disclosed in Note 16 to the financial statements which includes an amount of Kshs.851,732,537 in respect of deposit account. However, bank reconciliation statement supporting the balance reflects receipts in bank statement not in cashbook totalling Kshs.175,254,073 and payments in cashbook not in bank statement totalling Kshs.2,232,998 that have been outstanding for long and whose clearance status was not disclosed.

In the circumstances, accuracy and completeness of the cash and cash equivalents balance of Kshs.2,969,479,686 could not be confirmed.

123. Lack of Ownership Documents

The statement of financial position reflects a balance of Kshs.843,125,021 in respect of net land and building rental-investment property as disclosed in Note 20 to the financial statements. However, ownership documents for parcels of land on which some housing

units are located were not provided for audit. The properties include Kileleshwa Gichugu I, Kileleshwa Gichugu II, Kilimani-Denis Pritt, Park Road-Nairobi, Jogoo Road Nairobi, Kibera High rise, Mukenia South B, Kileleshwa flats, Shauri Moyo-Kisumu, Kiambu, Bondeni-Nakuru, Machakos, Embu and Ruiru.

In the circumstances, ownership of the investment properties totalling Kshs.843,125,021 could not be confirmed.

Emphasis of Matter

124. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted receipts amount of Kshs.737,216,247 against actual receipts amount of Kshs.481,010,564 resulting in an under-collection of Kshs.256,205,683 or 35% of the budget. Similarly, the statement reflects total budgeted expenditure of Kshs.2,840,250,000 against actual payments of Kshs.1,407,224,767 resulting in an under-expenditure of Kshs.1,433,025,233 or 50% of the budgeted expenditure.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

125. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under Basis for Adverse Opinion and two issues under other matters. These issues therefore remained unresolved contrary to the provisions of Section 149(2)(l) of the Public Finance Management Act, 2012 which require the Accounting Officers designated to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

126. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

127. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA SLUM UPGRADING LOW COST HOUSING AND INFRASTRUCTURE TRUST FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

129. Outstanding Pending Bills

The statement of financial position reflects a balance of Kshs.745,644,066 in respect of payables from exchange transaction which includes an amount of Kshs.404,829,430 dues to contractors (pending bills), in respect of works done and certified but not paid. However, Management did not provide reasons for the non- payments of the dues despite having a cash and cash equivalents balance of Kshs.822,574,544 as at 30 June, 2023. Failure to settle bills in the year to which they relate adversely affects the following year's provision to which they form the first charge. In addition, the Fund risk incurring penalties and interest costs due to delayed payments.

My opinion is not modified in respect of this matter.

Other Matter

130. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under Basis for Qualification Opinion section. Although the Fund Management indicated that the issues have been resolved, no evidence was provided to support this position. These issues therefore remained unresolved contrary to the provisions of Section 149(2)(l) of the Public Finance Management Act, 2012 which require the Accounting Officers designated to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

131. Failure to Constitute a Board of Trustees for the Fund

Examination of the Fund's records showed that Board of Trustees for the Fund had not been constituted. Further, there was no evidence that the Minister responsible for matters relating to Housing had appointed trustees. This is contrary to Regulation 10(1) and (2) of the Government Financial Management (Kenya Slum Upgrading, Low Cost Housing and Infrastructure Fund) Regulation, 2006.

In the circumstances, Management was in breach of the law.

132. Delayed Project Implementation

Review of the project implementation status report showed that 32 projects with a total contract sum of Kshs.2,811,550,739 had not been completed despite their completion date having lapsed at between 104% and 385%. The total amounts certified and paid for the projects was Kshs.3,542,449,178. The delayed projects are as below.

132.1 Proposed Construction of School Infrastructure - Tharaka Nithi

The Fund entered into contract with a transport and construction company for construction of 4 No. Classrooms, Ablution Block and Associated Sewer System, Administration Block, Kitchen and 1 No. Dormitory at a Girls Secondary School at a contract sum of Kshs.79,544,920. The project's commencement and completion date were 13 August, 2020 and 12 August, 2021 respectively. The completion date was revised to 27 January, 2022. However, as at 30 June, 2023, the project had stalled and was at 70% complete with a 214% time lapsed. A sum of Kshs.49,726,437 or 63% of contract sum had been paid. The contractor was issued with a default notices on 22 February, 2022 based on clauses 33.1 and 33.3 of the conditions of contract which states that the employer may terminate the contract if the contractor causes a fundamental breach of the contract. The breach of the contract entailed continued disregard of site instructions issued to the contractor, considerably slowed down progress of works with inadequate labour and materials on site and the contract period has elapsed. However, there was no evidence to show that the State Department for Housing and Urban Development commenced the process of termination of the contract despite issuing the default notice.

Delayed implementation of the project, denied the public benefits that could have accrued from the completed project and value for money for the amount of Kshs.49,726,437 already incurred could not be confirmed.

132.2 Construction of a Health Centre, Kilifi County

The Fund awarded a contract to a Contractor for construction of a Health Centre at Kisumu Ndogo/Muyeye Informal Settlement in Malindi at a contract sum of Kshs.48,805,790. The project's commencement and completion dates were 6 January, 2021 and 7 September, 2021 respectively. The completion date was revised to 31 January, 2023. However, at 30 June, 2023, the project had stalled at 75% complete with a 417% time lapsed but only a sum of Kshs.19,889,655 or 41% of contract sum had been paid.

On 3 October, 2023, the State Department for Housing and Urban Development invoked Clauses 33.1 (a) which states that the employer may commence the process termination if the Contractor stops work for 30 days and the stoppage has not been authorized by the Project Manager. The contractor was issued with a default notices due to none activity on site. Further, the contract period had expired and the Contractor's performance bond had also expired and has not been renewed.

Inspection of the project revealed that the roof was leaking at the theatre as the joints to the precast concrete tiles was not sealed and drainage on the roof was not completed.

This led to rainwater stagnating in some sections. Despite the deficiencies, the State Department for Housing and Urban Development had not commenced the process of termination of the contract.

Delayed implementation of the project denied the public benefits that could have accrued from the completed project.

132.3 Proposed Construction of Civil Works for Roads and Other External Works

The Fund entered into a contract with a construction company to do proposed construction of Civil Works for Roads and Other External Works in Social Housing- Met Site (Lot 1) at a contract sum of Kshs.430,970,890. The project's commencement and completion dates were 25 March, 2021 and 8 September, 2022 respectively. However, completion date was revised to 9 April, 2023. As at 30 June, 2023, the project was at 76% complete with 124%-time lapse but a sum of Kshs.427,825,107 or 99% of contract sum had been certified and paid. This is an indication that the actual payments exceed the percentage of the works completed. Delayed implementation of project, denied the public the benefits that could have accrued from the completed project.

In the circumstances, value for money could not be ascertained and project delays and bottlenecks may result to cost variations.

133. Interest Accrued for Non-Payments of Certified Works

The Fund entered into a contract with a construction company for construction, designing, building and financing of housing units and associated infrastructure for Kibera Soweto East Zone B, Nairobi Project.

Clause 33 under the Conditions to the contract on offtake and milestone payments provides that the procuring entity shall pay the contractor the amounts due within 90 days of the date of issue of request for payment. If the procuring entity makes a late payment, the contractor shall be paid simple interest on the late payment in the next payment.

The contractor submitted the request for payment of an amount of Kshs.624,700,160 on 26 October, 2022. The payment became due on 24 January, 2023. However, the State Department did not pay the certificates by the close of the year resulting to accrued interest amount of Kshs.42,375,037 as at 30 June, 2023.

In the circumstances, value for money and effective use of public resources could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

134. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE OFFICERS HOUSE MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

136. Low Uptake of Mortgage Funds

During the year under review, the State Officers Mortgage Scheme Fund had a development budget of Kshs.1,000,000,000 As reported in the loan status report by the bank (loan book), loan disbursements during the year amounted to Kshs.245,529,300 or 25% of the budget. Consequently, Kshs.754,470,700 or 75% of the budgeted funds for the mortgage were not taken up by the state officers. The overall objectives of the Fund may not have been achieved.

My opinion is not modified in respect of this matter.

Other Matter

137. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under Basis for Adverse Opinion and in the Report on Lawfulness and Effectiveness in Use of Public Resources sections. Although Management has indicated that all except one issue have been resolved, the Public Account Committee (PAC) of the National Assembly's report has not been issued on the deliberation and resolution thereof.

The issues remained unresolved contrary to the provisions of Section 149(2)(l) of the Public Finance Management Act, 2012 which require the Accounting Officers designated to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

138. Non-Performing Loans or Mortgage Arrears

The statement of financial position and as disclosed in Note 18(a) to the financial statements reflects long-term receivables from exchange transactions balance of Kshs.2,605,940,962 which includes a balance of Kshs.10,180,774 in respect of mortgage arrears. Scrutiny of the non-performing loans/defaulters' records revealed that arrears amounting to Kshs.4,569,969 or 45% were in respect of two (2) beneficiaries and have been outstanding for a period of more than four months. Although the Scheme

Management Committee provided demand letters to the defaulters, the amount was still outstanding as at 30 June, 2023.

In the circumstances, the existence of an effective mechanism to ensure recoverability of the long outstanding mortgage arrears could not be ascertained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

139. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR PUBLIC WORKS – VOTE 1095

STORES AND SERVICES FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

140. Unsupported Inventories

The statement of financial position reflects inventories balance of Kshs.197,048,168 as disclosed in Note 8 to the financial statements. However, Management did not provide stock sheets and ledgers for audit review. Further, the stocks have remained in stores for long and may become obsolete resulting to loss of public funds.

In the circumstances, the accuracy and existence of the inventory balance of Kshs.197,048,168 could not be confirmed.

141. Lack of Underlying Records and Approved Budget

Management did not provide underlying records used to prepare the financial statements by way of approved budget and ledgers. Further, the financial statements presented for audit did not include the statement of comparison of budget and actual amounts as per the prescribed reporting template issued by Public Sector Accounting Standards Board (PSASB).

In the circumstances, the accuracy and fair presentation of the financial statements could not be ascertained.

142. Unsupported Trade and Other Payables

The statement of financial position reflects an amount of Kshs.76,808,202 in respect of trade and other payables from exchange transactions which, as disclosed in Note 9 to the financial statements includes an amount of Kshs.19,641,489 relating to a suspense account that was not supported by analysis or documents indicating the source of the suspense. Further, trade and other payables from exchange transactions balance of Kshs.76,808,202 includes payments received in advance amounting to Kshs.57,166,713 that was not supported by bank statements and/or a schedule indicating dates when the deposits were made.

In the circumstances, the accuracy, existence and completeness of trade and other payables balance of Kshs.76,808,202 could not be confirmed.

143. Unsupported Bank Overdraft/Long Term Portion of Borrowing

As previously reported, the statement of financial position reflects borrowings/bank overdraft (CBK) balance of Kshs.283,595,154 as disclosed in Note 10 to the financial statements. However, Management did not explain/support the nature and purpose of the overdraft. Further, Management contravened Regulation 83(3) of the Public Finance

Management (National Government) Regulations, 2015 which provides that the National Government overdraft at the Central Bank of Kenya shall be retired by the end of the financial year.

In the circumstances, accuracy and regularity of the bank overdraft balance of Kshs.283,595,154 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

144. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

145. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

**STATE DEPARTMENT FOR LANDS AND PHYSICAL PLANNING –
VOTE 1112**

LAND SETTLEMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

146. Long Outstanding Receivables from Exchange Transactions

The statement of financial position reflects non-current receivables from exchange transactions balance of Kshs.11,879,507,004 as disclosed in Note 13 to the financial statements. The balance includes amounts of Kshs.6,712,368,859, Kshs.5,099,179,625 and Kshs.67,958,521 in respect of long-term loan repayment due, long-term interest receivable outstanding and development loan issued respectively.

As previously reported, review of records provided revealed that some of these loans were issued to settlers as far back as the year 1962 and have remained outstanding to date. Further, the Fund Management does not have a clear policy on evaluation and management of accounts receivables which can be used to determine the recoverability of the outstanding loans and thus there was no provision for bad debts. In addition, it was not possible to determine whether all the debtors are still alive to determine whether there is a possibility of 100% repayment of the loans.

In the circumstances, the accuracy, fair value and recoverability of the non-current receivables from exchange transactions amounting to Kshs.11,879,507,004 could not be confirmed.

Other Matter

147. Unresolved Prior Year Matters

In the audit report of the previous year, some issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues still remain unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

148. Undistributed Land

148.1 Kisima Njoro for Resettlement of Internally Displaced Persons (IDPS) in Nakuru County

As previously reported, Kisima Njoro land measuring one thousand one hundred and twelve (1,112) acres was purchased at a price of Kshs.396,984,000 as per the agreement

for sale dated 3 October, 2012 for resettlement of internally displaced persons. However, as at the time of audit in November, 2023 the land had not been surveyed or sub-divided and therefore, the beneficiaries were not settled, eleven (11) years after the purchase of the land.

148.2 Mikanjuni Farm in Kilifi County

As previously reported, the Fund purchased Mikanjuni farm measuring ninety-one (91) acres at a cost of Kshs.377,000,000 as per the agreement for sale dated 22 April, 2020 for resettlement of squatters. Although a list of beneficiaries was provided by the Land Adjudication and Settlement Officer of Kilifi County, as at the time of audit in November, 2023, the farm was still listed as undistributed by the Fund. No justification was given for not allocating and settling squatters.

148.3 Kadza Ndani Land in Mombasa County

As previously reported, the Fund purchased Kadza Ndani land measuring a total of 28.4 acres in Mombasa County at a cost of Kshs.378,000,000 as per the sale agreement dated 11 September, 2020 for resettlement of informal settlers. Although a list of beneficiaries was provided by the Land Adjudication and Settlement Officer of Mombasa County, as at the time of audit in November, 2023, the land was still listed as unallocated. No justification was given for not allocating and settling the informal settlers.

148.4 Mazrui Farm in Kilifi County

The Fund purchased Mazrui farm measuring a total of 1,497.38 acres in Kilifi County at a cost of Kshs.445,461,625 as per the sale agreement dated 21 July, 2022 for the settlement informal settlers. However, as at 30 June, 2023 the distribution of the land to the intended informal settlers had not been completed.

In the circumstances, the objective for which the parcels of land were acquired and value for money had not been achieved as at 30 June, 2023.

149. Lack of Organizational Structures

Review of the Fund's operations revealed that most of the staff working for the Fund are employees of the State Department for Lands and Physical Planning. However, the Fund does not have a Secretariat with its own employees recruited by the Board of Trustees or Management. Further, the Fund does not have any assets including motor vehicles of its own and relies on the State Department for its operations but utilizes the staff and assets of State Department.

In addition, the statement of financial performance reflects amounts of Kshs.540,710,875 and Kshs.8,608,082 in respect of use of goods and services and repairs and maintenance as disclosed in Note 9 and 10 to the financial statements respectively all of which related to work done by staff of the State Department that are dedicated to undertaking the Fund's duties although without formal assignment through secondment or appointment.

Although Management explained that the process of establishing the necessary administration structures was in progress, the process had not been concluded as at the

time of the audit in December, 2023. This is contrary to Section 135 (1A) of the Land Act, 2012 which states that the Board of Trustees shall be a body corporate with perpetual succession and a common seal.

In the circumstances, Management of the Fund was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

150. Lack of Risk Management Policy

As previously reported, the Fund did not have in place an institutionalized Risk Management Policy hence no formal approved processes and guidelines on how to mitigate operational, legal and financial risks.

In the circumstances, the Management of the Fund is not in a position to evaluate, rank and prioritize critical risks and channel resources towards mitigating identified risks.

151. Lack of Audit Committee

During the year under review there was no evidence provided for audit to show that the Audit Committee of the Fund met to discuss internal audit reports for the Fund.

In the circumstances, the role of the Audit Committee of supporting the Accounting Officer with regard to their responsibilities for issues of risk, control and governance and associated assurance could not be confirmed.

STATE DEPARTMENT FOR SPORTS AND THE ARTS – VOTE 1132

SPORTS, ARTS AND SOCIAL DEVELOPMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

152. Long Outstanding Receivables from Non- Exchange Transactions

The statement of financial position reflects receivables from non-exchange transactions balance of Kshs.42,921,369 as disclosed in Note 31 to the financial statements. However, analysis of the receivables schedule revealed that the balance includes an amount of Kshs.37,439,181(or 87%) which have been outstanding for more than 3 years. Management has not demonstrated efforts made to recover the long outstanding receivables.

In the circumstances, the recoverability of the balance is doubtful and thus the completeness and accuracy of receivables from non-exchange transactions of Kshs.37,439,181 could not be confirmed.

153. Lack of Motor Vehicle Ownership Documents

The statement of financial position reflects property plant and equipment net book balance of Kshs.2,287,987,658 which as disclosed in Note 34 to the financial statements, includes motor vehicles of Kshs.17,224,662. However, review of the asset register revealed that three (3) motor vehicles still in use had not been valued. In addition, the log books for the three (3) motor vehicles had not been transferred to the Fund.

In the circumstances, the accuracy, completeness and ownership of the motor vehicles with a net book balance of Kshs.17,224,662 as at 30 June, 2023 could not be confirmed.

154. Transfers to World Rally Championship (WRC) Safari Rally Kenya 2023

The statement of financial performance reflects Kshs.7,951,585,007 in respect to transfer to Government implementing agencies and sports organization which, as disclosed in Note 22 to the financial statements, includes Kshs.6,362,344,334 for promotion and development of sports. The transfer further includes an amount totalling Kshs.1,351,333,782 disbursed to the World Rally Championship (WRC) Safari Rally Kenya for the purposes of preparing for the 2023 Safari Rally Championship. However, audit review revealed the following anomalies: -

154.1 Unsupported Provision of Land Access Fees

The World Rally Championship (WRC) Safari Rally Kenya incurred an amount of Kshs.24,419,290 towards provision of land access fees. An Access Agreement was signed between WRC and the land owners on 18 March, 2018 which stated that the WRC will expressly enter into an extension to the agreement by mutual consent for another two

(2) years upon negotiations. However, the negotiation documents were not provided for audit review.

In addition, the route survey report indicating the route, distance covered and the locations was not provided for audit review. Further, there were no valuation report indicating the rates used to compensate the land owners.

In the circumstances, the propriety, completeness and accuracy of the expenditure of Kshs.24,419,290 on land access fees for the year ended 30 June, 2023 could not be confirmed.

154.2 Unsupported Consultancy Services and Provision of Spares for Rally Cars

During the year, an amount of Kshs.13,386,690 was paid to a supplier for consultancy services and provision of spares for rally cars. However, the contracts documents were not provided for audit review. Further, single sourcing method of procurement was used without approval in writing by the Accounting Officer.

In the circumstances, the propriety, completeness and accuracy of the expenditure of Kshs.13,386,690 could not be confirmed.

154.3 Unsupported Supply and Delivery of Pharmaceutical and Non-Pharmaceutical Consumables

During the year, supply and delivery of pharmaceuticals and non-pharmaceutical consumables amounting to Kshs.20,131,900 was awarded through a request for quotation method of procurement and payment made to a supplier. However, the expenditure was above the legal threshold of Kshs.3,000,000 for request for quotations as set out in the Second Schedule of the Public Procurement and Asset Disposal Regulations, 2020. No explanation was given for the anomaly. In addition, signed inspection and acceptance report, stores records and distribution to end users together with stock take report on the balances in stock were not provided for audit review.

In the circumstances, the propriety, completeness and accuracy of the expenditure of Kshs.20,131,900 could not be confirmed.

154.4 Unsupported Fuel Allowances

Review of payments revealed that fuel allowances totalling Kshs.28,580,000 was paid to staff and professional volunteers at the rate of Kshs.20,000 per day. However, the authority of the Local Organizing Committee (LOC), signed payments lists to confirm receipt of cash by the recipients and work schedules were not provided for audit review.

In the circumstances, the propriety, completeness and accuracy of the expenditure of Kshs.28,580,000 could not be confirmed.

154.5 Unsupported Payment for Airtime

The World Rally Championship (WRC) Safari Rally Kenya spent an amount of Kshs.568,500 on facilitation of airtime to its sixty-three (63) staff for the months of March

to May, 2023. However, documentation on staff entitled to facilitation of airtime, the frequency, the rate and authority to pay were not provided for audit review.

In the circumstances, the propriety, completeness and accuracy of the expenditure of Kshs.568,500 could not be confirmed.

154.6 Unsupported Renewal of Insurance Services

The contract for insurance services was done through an invitation to tender in 2020, awarding the contract to an insurance company for provision of public liability insurance for the World Rally Championship (WRC) Safari Rally Kenya. However, the contract was renewed without competitive bidding resulting to payment of Kshs.12,141,944 on 16 June, 2023. In addition, the policy document to confirm the terms of the renewed insurance to ensure consistency with the previous contract, fee notes to confirm the premiums paid, and professional opinion to confirm the basis of the renewal of contract were not provided for audit verification.

In the circumstances, the propriety, completeness and accuracy of the expenditure of Kshs.12,141,944 could not be confirmed.

154.7 Unsupported Construction of Earth Works at Kasarani Super Special Stage

The World Rally Championship (WRC) Safari Rally Kenya paid a total of Kshs.9,008,003 comprised of Kshs.6,688,003 to a contractor for the construction of earthworks at Kasarani super special stage and Kshs.2,320,000 for supply of 100 lorries of murrum. However, the requirements for the works done with detailed technical specifications, drawings and plans as well as the Bills of Quantities, the contract agreement, procurement documents including the award of contract, certificates of work done and technical reports from the clerk of work were not provided for audit review.

In the circumstances, the propriety, completeness and accuracy of the expenditure of Kshs.9,008,003 could not be confirmed.

154.8 Unsupported and Unapproved Pending Bills

Review of documents provided revealed that WRC had an approved budget of Kshs.1,503,554,782 while the actual expenditure incurred totalled Kshs.1,759,724,938 resulting to unapproved pending bills and unsupported over expenditure of Kshs.256,170,156 for the year under review. No explanation was provided for the commencement of procurement process without sufficient funds. Further, the workplan indicating the activities undertaken, target outputs, performance indicators and outcomes and description of items procured and procurement methods used, were not provided for audit verification.

In the circumstances, the propriety, completeness and accuracy of the pending bills of Kshs.256,170,156 as at 30 June, 2023 could not be confirmed.

154.9 Unaccounted for Inventory

Review of the stores management system and inventory controls revealed that supplies totalling Kshs.56,492,901 could not be traced to the stores/inventory records. Further, no

system was in place to confirm that stores are inspected, received and taken on charge when received. No explanation was provided for the anomaly.

In the circumstances, the propriety and completeness of the inventory items totalling Kshs.56,492,901 could not be confirmed.

155. Unaccounted for Transfers to Ministry of Health Including Universal Health Care

The statement of financial performance reflects an expenditure of Kshs.7,951,585,007 in respect to transfers to government implementing agencies and sports organizations as disclosed in Note 22 to the financial statements. The expenditure includes an amount of Kshs.1,264,591,806 disbursed to the Ministry of Health in response to a Presidential Directive in respect to Health Sector to construct and equip eight (8) hospitals. However, the returns from the Ministry of Health to confirm the status, scope and value of the works undertaken were not provided for audit verification.

In the circumstances, propriety, accuracy and completeness of the expenditure of Kshs.1,264,591,806 could not be confirmed.

156. Unaccounted for Transfers to Sports Federations and Organizations

The transfer to Government implementing agencies and sports organizations statement of Kshs.7,951,585,007 includes an amount Kshs.6,362,344,334 disbursed to sports federations and organizations to support sporting events. However, the returns received from the sports federations and organizations amounted to Kshs.2,673,973,071 resulting to an unexplained variance of Kshs.3,688,371,263.

In the circumstances, propriety, accuracy and completeness of the expenditure of Kshs.3,688,371,263 could not be confirmed.

157. Unsupported Promotion and Development of Arts

Further, the transfers to Government implementing agencies and sports organizations of Kshs.7,951,585,007 includes an amount of Kshs.324,648,867 disbursed to Government agencies to support the promotion and development of arts. However, the transfers were not supported with expenditure returns.

In the circumstances, propriety, accuracy and completeness of the expenditure of Kshs.324,648,867 could not be confirmed.

158. Unsupported Transfer to The NGAO - Kenya Defensive Pistol Federation for Expansion of Kirigiti Range for Africa Championship 2023

The transfers to government implementing agencies and sports organization of Kshs.7,951,585,007 includes an amount of Kshs.6,362,344,334 in respect of promotion and development of sports. The latter balance includes an amount of Kshs.4,107,710 incurred towards expansion of Kirigiti Range for African Championship 2023. The scope of work was expansion of the shooting range as per the architectural drawings and the Bill of Quantities.

However, the tender evaluation minutes to confirm preliminary, technical and financial evaluation plus the professional opinion awarding the tender were not provided for audit verification. Further, payments were made through invoices, whereby no certificate of payments was raised after valuation of work done and retention monies were not deducted from the payments. In addition, the final payment was made with no certificate of practical completion or technical report issued to confirm the completion of the Project.

In the circumstances, propriety, accuracy and completeness of the expenditure of Kshs.4,107,710 could not be confirmed.

Emphasis of Matter

159. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.15,952,040,000 and Kshs.10,954,089,738 respectively resulting to an under-collection of Kshs.4,997,950,262 (or 31%) of the approved budget. Similarly, the Fund spent an amount of Kshs.8,221,884,781 against an approved budget of Kshs.15,952,040,000 resulting to an under-expenditure of Kshs.7,730,155,219 (or 48%) of the budget.

The under-performance and under-collection affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

160. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

161. Lack of Board Annual Workplan and Almanac Calendar

The statement of financial performance reflects Oversight Board expenses of Kshs.16,612,413 as disclosed in Note 18 of the financial statements. However, review of the Oversight Board operations and activities revealed that the Board did not have annual work plan, an Almanac calendar, a Board Charter and Board Committees.

Further, the Board held a total of twenty (20) meetings against approved maximum number of six (6) meetings, resulting to an excess of fourteen (14) meetings which were not authorized by the Ministry of Sports. This was contrary to Public Service Circular OP/CAB.9/1A dated 11 March, 2020 on guidelines for the Management of State Corporations. In addition, minutes for six (6) Board meetings were not fully signed.

In the circumstances, the effectiveness of governance system could not be confirmed.

162. Lack of an Internal Audit Function and Audit Committee

The Fund has not established an Internal Audit Function and an Audit Committee contrary to the provisions of Section 73(1) and (5) of the Public Finance Management Act, 2012 which requires all government entities to make appropriate arrangements for Internal Audit Function. Further, Regulations 174 (1) of the Public Finance Management (National Government) Regulations, 2015 provides for the establishment of an Audit Committee. As such the Fund did not benefit from the assurance and advisory services from the Internal Audit Function as well as oversight from the Audit Committee.

In the circumstances, the effectiveness of internal controls and risk management could not be confirmed.

STATE DEPARTMENT FOR ENERGY – VOTE 1152

PETROLEUM DEVELOPMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

164. Irregular Utilization of the Fund Resources

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects transfers to other Government entities amount totalling Kshs.2,384,000,000. The Fund Management transferred the funds to various Government entities and one private entity, all of which have no responsibility in the oil and petroleum industry. This is contrary to Section 4(4) of the Petroleum Development Fund Act No.4 of 1991 (Revised 2012), which provides that there shall be paid out of the petroleum development funds such monies as are necessary for the development of common facilities for distribution or testing of oil products and matters relating to the development of the oil industry.

In the circumstances, Management was in breach of the law.

165. Excess Withholding Tax on Interest Income

The statement of receipts and payments and Note 4 to the financial statements reflect general expenses of Kshs.5,474,808 which includes withholding tax expense of Kshs.5,466,768 which was computed at a rate of 20% of interest income earned from a local bank during the financial year. This was contrary to the provisions of the Income Tax Act cap 470 which states that resident withholding tax on qualifying interest be charged at a rate of 15%. Consequently, the Fund lost Kshs.1,366,692 as a result of excess withholding tax charged on the interest. Although Management wrote to the bank seeking clarification for the excess tax and refund on the same, no response had been received as at the time of audit.

In the circumstances, the bank was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

166. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA ENERGY SECTOR ENVIRONMENT AND SOCIAL RESPONSIBILITY PROGRAMME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

168. Excess Withholding Tax on Interest Income and Failure to Remit Withheld VAT

Review of the interest due from financial institution revealed that the bank was subjecting the Fund's monthly interest to a withholding tax rate of 20% contrary to the Third Schedule of the Income Tax Act Cap 470 Number 5(h)(iii) which states that resident withholding tax on qualifying interest shall be payable at a rate of 15% the gross amount. This resulted to an over charge of withholding tax of Kshs.654,531. In addition, an amount of Kshs.640,232 of withholding VAT withheld by the Program was not remitted to Kenya Revenue Authority as per Tax procedures.

In the circumstances, the Fund was in breach of the law.

169. Irregular Funding of the Program

The statement of financial performance reflects transfers from other Government entities amounting to Kshs.81,000,000 as disclosed in Note 5 to the financial statements. Included in the transfers is an amount of Kshs.80,000,000 received from the Petroleum Development Levy Fund - State Department for Energy. However, the Fund has no responsibility in the oil and petroleum industry. The transfer of the Kshs.80,000,000 is contrary to Section 4(4) of the Petroleum Development Fund Act No.4 of 1991 (Revised 2012), which provides that there shall be paid out of the petroleum development funds such monies as are necessary for the development of common facilities for distribution or testing of oil products and matters relating to the development of the oil industry.

In the circumstances, Management was in breach of the law.

170. Low Contribution to the Fund

As previously reported, the projected contributions by eight (8) agencies for the ten-year period towards the Fund, based on the 2019-2029 action plan revealed that out of the expected contribution of Kshs.824,000,000, only Kshs.311,000,000 or 38% was realized from three (3) agencies while five (5) agencies had not made any contributions over the four (4) years as detailed below:

No.	Organization	Proposed Phase Two Allocation (2019-2029) Amount (Kshs.)	Contribution Allocation for the Last 4 Years (Kshs.)	Total Contribution Received in the Last 4 Years (Kshs.)	Deficit in Contribution (Kshs.)
1	Ministry of Energy (MOE)	659,000,000	263,600,000	302,000,000	(38,400,000)
2	Kenya Electricity Transmission Company (KETRACO)	5,000,000	2,000,000	0	2,000,000
3	Geothermal Development Company (GDC)	54,000,000	21,600,000	0	21,600,000
4	Nuclear Power and Energy Agency (NuPEA)	12,000,000	4,800,000	0	4,800,000
5	Kenya Power and Lighting Company Limited (KPLC)	10,000,000	4,000,000	3,000,000	1,000,000
6	Energy and Petroleum Regulatory Authority (EPRA)	20,000,000	8,000,000	6,000,000	2,000,000
7	Kenya Electricity Generating Company PLC (KenGen),	10,000,000	4,000,000	0	4,000,000
8	Rural Electrification & Renewable Energy Corporation (REREC)	54,000,000	21,600,000	0	21,600,000
Total		824,000,000	329,600,000	311,000,000	18,600,000

Though the Management has written to the five (5) agencies which were not contributing in accordance with the agreement, nothing much has changed.

In the circumstances, the non-contribution to the Fund is a violation to the terms of the agreement and may impact negatively on the operations of the Fund and its ability to achieve the intended goals and objectives.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

171. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR LIVESTOCK – VOTE 1162

VETERINARY SERVICES DEVELOPMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

172. Outstanding Receivables from Non-Exchange Transactions

The statement of financial position and as disclosed in Note 10 to the financial statements reflects receivables from non-exchange transactions balance of Kshs.781,144 which comprises of outstanding imprest of Kshs.634,844 and rent arrears of Kshs.146,300 due from staff. However, the balances have been outstanding for more than one year and no provision has been made for the outstanding debts. Further, no progress has been reported towards recovery of these debts.

In the circumstances, the accuracy, completeness, and recoverability of the receivables from non-exchange transactions balance of Kshs.781,144 could not be confirmed.

Other Matter

173. Unresolved Prior Year Matters

In the audit report of the previous years, a number of audit issues were raised. However, Management has not resolved the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

174. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

175. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES – VOTE 1166

FISH LEVY TRUST FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

176. Unsupported Expenditure

The statement of financial performance reflects use of goods and services amount of Kshs.19,926,120 which includes fuel and oil expenditure amount of Kshs.691,000. However, these expenditures relating to fuel and oil were not supported by appropriate documents.

In the circumstances, the propriety, accuracy and completeness of fuel and oil expenditure of Kshs.691,000 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

177. Late Submission of Financial Statements

The financial statements for the year under review were submitted to the Auditor-General on 2 October, 2023. This was contrary to Section 47(1) of the Public Audit Act, 2015 which provides that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

In the circumstances, Management was in breach of the law.

178. Non-Appointment of Board of Trustees

Review of the records provided revealed that the Fund had no Board of Trustees during the year under review. This was contrary to Section 28(4) of the Fisheries Management and Development Act, 2016 which states that Fund is to be administered by a five-member Board of Trustees nominated through an open and competitive process and that they shall meet the requirements of Chapter six of the Constitution. Therefore, the Fund's strategic direction and decisions for the Board could not be made.

In the circumstances, Management was in breach of the law.

179. Issuance of Multiple Imprests

Review of the records revealed staff were being issued with additional imprests while still holding other unsurrendered imprests. This was contrary to Regulation 93(8) of the Public

Finance Management (National Government) Regulations, 2015 which provides that in order to effectively and efficiently manage and control the issue of temporary imprests, an accounting officer or AIE holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.

In the circumstances, Management was in breach of the regulation.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

180. Failure to Maintain a Detailed Fixed Assets Register

The fixed assets register maintained by the Fund did not include comprehensive details as required for ease of identification, safeguarding and management of its assets. This was contrary to Regulation 139(1) and (2) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer of a National Government entity to take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; movement and conditions of assets can be tracked; and stock levels are at an optimum and economical level. Further, a physical verification of the assets carried out in November, 2023 revealed that the assets had not been tagged or serialized.

In the circumstances, effective controls on use of the assets to minimize instances of abuse and misuses of the Fund's assets were not in place.

STATE DEPARTMENT FOR CROP DEVELOPMENT – VOTE 1169

COMMODITIES FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

181. Receivables from Exchange Transactions - Loans and Interest

The statement of financial position reflects long-term receivables from exchange transactions amounting to Kshs.970,881,000 and current portion of long term receivables from exchange transactions amounting to Kshs.348,743,000 all totalling Kshs.1,319,624,000. The amounts comprise of gross loans totalling Kshs.20,869,255,000 less provisions totalling Kshs.19,549,631,000 as disclosed in Note 19 (ii) to the financial statements. Review of records revealed the following anomalies:

181.1 Variances in the Loans Due for Write Off

Included in the gross loans amount are loans due from five (5) sugar mills due for write off totalling Kshs.12,335,763,897. Review of records revealed that The National Treasury vide letter dated 12 October, 2023 approved write-off of loans amounting to Kshs.13,167,893,786 resulting to a variance of Kshs.832,129,889 as shown below:

Entity	Approved for write off (Kshs.)	Due for write off as per Commodities Fund Records (Kshs.)	Variance (Kshs.)
Nzoia Sugar Company	3,637,056,220	3,024,787,556	612,268,664
Chemilil Sugar Company	3,740,868,462	3,647,977,903	92,890,559
Muhoroni Sugar Company Limited	3,466,198,521	3,473,544,680	(7,346,159)
Miwani Sugar Company	1,820,525,811	1,686,123,254	134,402,557
South Nyanza Sugar Company Limited	503,244,772	503,330,504	(85,732)
Total	13,167,893,786	12,335,763,897	832,129,889

However, the variance has not been explained and the receivables from exchange transactions have not been adjusted accordingly.

181.2 Long Outstanding Receivables

In addition, review of loan records revealed that the receivables from exchange transactions amount includes Kshs.5,556,427,877, Kshs.726,190,317 and Kshs.6,386,235 for Sugar, Coffee, and Coconut respectively all totalling Kshs.6,289,008,765 which have been outstanding for long. The recoverability of the amount could not be confirmed.

181.3 Unsecured and Inadequately Secured Loans

Analysis of Coffee and Sugar loan records revealed that loans totalling Kshs.19,026,215,925 had no security. Further, loans totalling Kshs.311,695,972 had securities which were less than the outstanding loan balances.

181.4 Loans Secured by Tripartite Agreements

Included in the loans balance are loans totalling Kshs.9,200,000 secured by tripartite agreement between Societies and Marketers who were not licenced by Capital Markets Authority. This is contrary to a Public notice by the Capital Markets Authority, hence the security of the coffee loans is doubtful.

181.5 Long Outstanding Loans to Farmers and SACCOs

Included in the loan balances are loans due from Kisumu Sugar Belt Co-operative Union, Muhoroni Multipurpose Co-operative Union and Muhoroni Sugar Company amounting to Kshs.134,285,742, Kshs.88,792,492 and Kshs.3,473,544,680 respectively all totalling Kshs.3,696,622,914. Verification on the above loaned entities revealed the following issues:

- 181.5.1** Kisumu Sugar Belt Co-operative Union is made up of 80 active co-operative societies while Muhoroni Multipurpose Co-operative Union consists of 15 active co-operative societies. The two unions are in operation and are actively involved with farmers. However, they have been defaulting on loans repayment to their respective unions which in turn has caused the unions to default on Fund's loans. Muhoroni Sugar Company on the other hand was in operation as at the time of audit verification in the month of November, 2023 yet no efforts have been made on remitting the amounts owed to the Fund.
- 181.5.2** Muhoroni Sugar Company Limited which is in receivership recovered loans amounting to Kshs.3,005,652. These loans were recovered from farmers since the year 2015 on behalf of Muhoroni Multipurpose Co-operative Union for onward remittance to the Fund. However, the amount recovered was not remitted to the Fund. It was not clear why these loan recoveries were not remitted immediately they were recovered. The union has been sending several reminders on the same without any response from the Factory Management.
- 181.5.3** Most of outstanding loans given to farmers were given as social grants with no securities and as such, recovery of these loans by the out-grower companies from the farmers has become almost impossible over the years.
- 181.5.4** Political utterances have created conflicts between the sugarcane farmers and the SACCOs as well as the Fund. Farmers are capitalizing on utterances made to the effect that the outstanding loans have been written off by the Government of Kenya. Hence, they refuse to pay or find ways of evading loan recoveries by delivering their canes to other milling factories that have no loan commitments with them.

In the circumstances, the accuracy, completeness, existence and recoverability of the receivables from exchange transactions gross loans and advances of Kshs.20,869,225,000 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

182. Irregular Payment of House Allowances

The statement of financial performance reflects employee costs amounting to Kshs.110,630,000 as disclosed in Note 11 to the financial statement. The amount includes housing benefits and allowances totalling Kshs.25,452,000. However, review of the payroll records revealed that some employees were paid house allowances totalling Kshs.3,839,300 which exceeded the approved rate by the Salaries and Remuneration Commission (SRC) as per their respective job grades and location. No evidence was provided to confirm if approval for the payments of the allowances was granted by SRC. Further, uniform house allowance was paid for different towns. This is contrary to SRC Circular Referenced SRC/TS/MDP/3/1/2 (2) of 11 August, 2015 which details the house allowance rates for all civil servants according to their job grades and location of posting.

In the circumstances, Management was in breach of the law.

183. Irregular Investment of Surplus Funds in Fixed Deposits at Commercial Banks

The statement of financial position reflects cash and cash equivalents amounting to Kshs.1,845,870,000. The amount includes short term deposits totalling Kshs.1,732,476,000 invested in the local banks as disclosed in Note 18 (ii) to the financial statements. This is contrary to The National Treasury Circular of 26 March, 2018 which directed all State Corporations and Semi-Autonomous Government Agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank of Kenya without intermediaries.

In the circumstances, Management was in breach of the law.

184. Committee with Members Exceeding One Third of Full Board

Review of board documents indicated that the full board had eight (8) members, out of which three committees namely, finance, human resource and general-purpose committee; credit and business development committee; and audit and risk and governance committees were established. However, these committees had a membership of four (4), six (6) and four (4) members respectively which exceeds the one third (3 members) of the full board members. This was contrary to the Paragraph 4 of the Office of the President Circular of 11 March, 2020 which states that the number of members to any Committees should be no more than one third (1/3) of the full Board to obviate the risk of a Committee conducting its business within the framework of a full Board structure.

In the circumstances, Management was in breach law.

185. Lack of Performance Evaluation for the Board

The statement of financial performance reflects remuneration of trustees amounting to Kshs.17,786,000 as disclosed in Note 12 to the financial statements. However, performance evaluation for the Board was not done for the year under audit. This was in contravention of the Mwongozo Chapter 1 (4) which states that the performance of the Board, its committees and individual directors should be evaluated annually.

In the circumstances, the Board was in breach of the law.

186. Non-Preparation of Car and Mortgage Funds Financial Statements

The statement of financial position reflects total investments of Kshs.128,242,000. The amount includes staff mortgage loan and car loan deposits amounting to Kshs.116,164,000 and Kshs.12,078,000 respectively. However, the Fund did not prepare financial statements for the schemes and submit them for audit as required by the Salaries and Remuneration Commission (SRC) Circular dated 17 December, 2014 on Car Loan and Mortgage Schemes for State Officers and other Public Officers of the Government of Kenya.

In the circumstances, Management was in breach of the law.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

187. There were no material issues relating to effectiveness of internal controls, risk management and governance.

AGRICULTURAL INFORMATION RESOURCE CENTRE REVOLVING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

188. Misstatement of Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment net book value totalling Kshs.168,334 as disclosed in Note 13 to the financial statements. As previously reported, the balance excludes assets with total original cost of Kshs.38,347,572 which are fully depreciated but are still in use. However, the assets have not been revalued.

In the circumstances, the accuracy and completeness of property, plant and equipment balance totalling Kshs.168,334 could not be confirmed.

189. Long Outstanding Current Liabilities

The statement of financial position reflects current liabilities totalling Kshs.1,498,598, as further disclosed in Note 16 to the financial statements. Review of the supporting ledger revealed that the payables have been long outstanding with some dating back to 2017/2018 financial year. However, the creditors have not laid claim on the outstanding amounts. Management did not explain why these payables have remained unpaid for this long.

In the circumstances, the accuracy and existence of the accounts payable totalling Kshs.1,498,598 could not be confirmed.

190. Long Outstanding Accounts Receivable Balances

The statement of financial position reflects receivables from exchange transactions totalling Kshs.7,413,999 as disclosed in Note 11 to the financial statements. Review of the debtors ageing analysis revealed that these debtors have been long outstanding with some dating far back to the year 1993. Although a 5% provision for bad and doubtful debt was made, the provision appears inadequate and was not disclosed in the financial statements under significant accounting policies. Further, the debtor balances were not supported with individual debtors' statements, copies of actual invoices and contract documents.

In the circumstances, the accuracy, completeness and recoverability of receivables from exchange transactions totalling Kshs.7,413,998 could not be confirmed.

Other Matter

191. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted income and actual on comparable basis of Kshs.36,304,708 and Kshs.24,800,707 respectively resulting to an under-funding of Kshs.11,504,001 or 32% of the budget. Similarly, the Fund spent Kshs.23,859,775 against an approved budget of Kshs.36,804,708 resulting to an under-expenditure of Kshs.12,944,933 or 35% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on delivery of goods and services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

192. Lack of Approved and Balanced Budget

The statement of comparison of budget and actual amounts reflects total budgeted income totalling Kshs.36,304,708. The amount differs with the budgeted expenditure totalling Kshs.36,804,708 resulting to a variance of Kshs.500,000. The budget was therefore not balanced. This is contrary to Regulation 33(c) of the Public Finance

Management (National Government) Regulations, 2015 which requires the budget to be balanced. Further, the budget was not approved since there was no Board of Directors in office during the year under review.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

193. Failure to Appoint Members to the Board of Directors

During the year under review, the Fund operated without a dully appointed and functional Board of Directors.

In the circumstances, the internal controls, governance structure and risk management within the organization may therefore have been weak.

194. Internal Controls Weaknesses

An assessment of the Fund's internal control environment revealed that the Fund did not have an internal audit function to continuously monitor implementation of internal controls and no evidence was provided to confirm that internal audit activities were performed on the Fund. Further, during the year under review the Fund did not have a documented Risk Management Policy and did not perform any risk assessments.

In addition, the Fund Management has not established a disaster recovery/business continuity plan.

In the circumstances, the Fund's internal controls were not effective.

STATE DEPARTMENT FOR CO-OPERATIVES – VOTE 1173

FINANCIAL INCLUSION FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

195. Failure to Provide Source Documents

Management submitted the financial statements for audit on 29 September, 2023 and amended financial statements on 03 May, 2024. However, the source documents to support the financial statement balances such as Cashbooks and General Ledger were not provided for audit review. It was therefore not possible to confirm the source and authenticity of the balances in respect of the components reflected in the Trial Balance and the financial statements.

196. Presentation of the Financial Statements

Review of the financial statements submitted for audit against the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB) of Kenya revealed the following omissions;

196.1 Inconsistency of the Pagination

The financial statements presented for audit had inconsistency in the table of contents where items 13 and 14 are omitted. The provision of the Auditor-General's report was also missing while the statement of financial performance is indicated as item 12 but the subsequent statement of financial position is captioned as number 15 thereby omitting number 13 and 14.

196.2 Failure to Disclose Interest Earned from Customer Savings

Examination of loan disbursement records reveals that the Fund had customer savings amounting to Kshs.1,600,738,661 as at 30 June, 2023. However, the interest accrued from the customer savings was not disclosed as revenue in the statement of financial performance and statement of cash flows for the period.

197. Variances Between the Balances in the Financial Statements and the Loan Disbursement Data

Review of the financial statements against loan data provided for audit review revealed variances between financial statement balances and the data as detailed below;

Item	Financial Statements (Kshs.)	Supporting Records (Kshs.)	Variance (Kshs.)
Interest Income from Loans	465,589,559	84,015,467	381,574,092
Customer Savings	1,500,260,763	1,600,738,661	(100,477,898)
Receivables from Exchange Transactions – Loan Borrowers	10,566,483,268	10,487,276,433	79,206,836

Further, the recomputed total interest as at 30 June, 2023 as per the regulations amounted to Kshs.454,600,950.

198. Unsupported Balances

The following balances reported in the financial statements were not supported with the relevant documents:

No.	Item	Note	Amount (Kshs.)	Remarks
1	Use of Goods and Services	8	232,795,259	Payment Vouchers and invoices showing goods and services procured were not provided for review.
2	Other Income	7(c)	805,475	Bank statements and schedule showing date and amount of interest earned not provided.
3	Trade and Other Payables	13	232,794,780	Schedule showing names of creditors and amount due to them not provided.
4	Customer Savings	12	1,500,260,763	Bank Statements confirming the existence of the Customer Savings not provided.

199. Unsupported Statement of Changes in Net Assets Balances

The statement of changes in net assets for the seven months period ended 30 June, 2023 reflects unexplained balance of Kshs.12,232,794,298, transfers to revolving fund of Kshs.116,397,390, and Secretariat amount of Kshs.116,397,390. However, the amounts were not supported by ledger, trial balance or any verifiable documents from which the balances were drawn.

In the circumstances, the accuracy of the financial statements could not be ascertained and do not comply with International Public Sector Accounting Standards -1 on presentation of financial statements.

200. Unconfirmed Cash and Cash Equivalents

The statement of financial position and as disclosed in Note 9 to the financial statements reflects cash and cash equivalents balance of Kshs.3,006,579,704 which comprised of

funds held in five (5) bank accounts and the Mobile Network Operators subcontracted by the Fund. However, review of the balances revealed that Management provided bank statements and certificates of bank balances in support of cash balances held in the five (5) bank accounts operated by the Fund amounting to Kshs.2,747,553,151. However, copies of cashbooks, bank reconciliation statements and Board of Survey reports as at 30 June, 2023 were not provided for audit review.

Further, cash balance amounting to Kshs.259,026,553 held by the service providers in the mobile money wallets could not be confirmed as there was no documentation provided for audit review to confirm its existence. In addition, details on the bank account signatories and their specimen signatures were not availed for audit review.

In the circumstances, the completeness, existence and accuracy of the cash and cash equivalents balances of Kshs.3,006,579,704 could not be confirmed.

201. Doubtful Recovery of Receivables from Exchange Transactions

An analysis of data provided by the Kenya Commercial Bank revealed that 21,282,515 customers opted in to benefit from the Fund out of which 17,855,858 beneficiaries applied for the loans and received disbursements amounting to Kshs.32,015,962,276 which includes Kshs.1,189,050 of the groups product.

Out of the total loans disbursed, a balance of Kshs.10,950,075,614 had not been repaid as at 30 June, 2023 as reflected in the statement of financial position and as disclosed in Note 11 to the financial statements. The balance comprises of interest receivable, interest from investment and loan receivables from loan borrowers of Kshs.382,786,870, Kshs.805,475 and Kshs.10,566,483,268, respectively.

However, analysis of the outstanding loan receivables from loan borrowers indicates that 78% of the loans amounting to Kshs.8,219,087,056 had been outstanding for more than three (3) months as detailed below:

Period (Days)	Number of Loans	Outstanding Principal Loan Amount (Kshs.)	Percentage (%)
0 - 30	1,433,958	1,265,675,943	12%
31 - 60	609,318	471,554,335	5 %
61 - 90	708,989	530,959,097	5 %
Above 90	14,193,800	8,219,087,056	78 %
Total	16,946,065	10,487,276,432	100%

In the circumstances, the recoverability of outstanding loans totalling Kshs.8,219,087,056 could result in loss of public funds.

202. Irregularities in Loan Disbursements

Audit review of the loan disbursement data revealed the following observations-;

202.1 Irregular Charges to Customers

Regulation 22 of the Public Finance Management (Financial Inclusion Fund) Regulations 2022 states that the interest or administrative fee payable by a beneficiary on a financial service or product advanced under the Regulations shall be at a maximum rate of eight per centum on reducing balance: provided that where a beneficiary defaults, the interest or administrative fee payable shall be nine and one half per centum on a reducing balance.

However, it was noted that Safaricom charged roll over fee at the rate 0.195 to 0.392% and penalty fee at the rate of 0.13 to 4.95% to beneficiaries amounting to Kshs.368,760,229 contrary to the provisions of the law and regulations.

202.2 Customers Without National Identity Cards (ID)

Review of records from the Kenya Commercial Bank (KCB) revealed that there were five (5) customers who had no National Identity Card numbers which is the key identifier for all beneficiaries of the Fund. It was therefore not possible to confirm if the customers were issued with loans.

202.3 Loans not Linked to a Transaction Code

Loans processed are linked to a transaction code, which is a reliable verification that funds were transferred to a mobile number. However, review of the data provided revealed that there were 424 loans amounting to Kshs.405,445 that had no transaction code. It was therefore not possible to verify whether the amounts were actually disbursed to a mobile number.

202.4 Issuance of Additional Loans

The analysis of the data provided for audit review revealed that 114,213 borrowers were issued with 229,421 loans amounting to Kshs.161,931,703 before repayment of previous loans. It was not clear why some borrowers were issued with multiple loans while some of the people who opted in were not issued with any loan.

202.5 Closed Loan Accounts but not Repaid

Audit analysis revealed that 129,315 loan accounts totalling Kshs.81,622,289 had been closed. However, their loan repayments could not be traced. No proper explanation was provided by Management to explain why the loan accounts were closed before the repayment of the loans.

202.6 Non-Disclosure of Loans

Audit examination revealed that there were 2,701 loans amounting to Kshs.2,020,985 that were issued but could not be traced in the loan repayments or the outstanding loans. The accuracy of the loans disbursed could therefore not be confirmed.

202.7 Duplicate Loan Identity Numbers (IDs)

Data analysis for Loan disbursements at KCB revealed that customer Loans were uniquely identified through a Loan Identity Number. However, it was identified that there

are Loan Identity Numbers that were used to process more than one loan whereby 867 loan IDs were used to process 1,978 loans amounting to Kshs.477,928. This is an indication that the loan management system is not properly configured.

202.8 Disbursement of Loans Above the Set Loan Limits

During the audit, it was observed that loans were issued based on a Credit-Scoring Model which is used to determine the credit worthiness of an eligible person to qualify for an initial loan or for subsequent and enhanced financial service. The scoring model also sets a loan limit for all eligible persons as follows:

- i. Initial Limit – for loans issued between November, 2022 and February, 2023.
- ii. First Revised Limit – revised for loans issued between February, 2023 and November 2023, and
- iii. Second Revised Limit – revised for loans issued with effect from November, 2023.

However, examination of loan records reveals that the Fund disbursed loans which exceeded the set limits as follows;

- (a) 238,707 persons were issued loans amounting to Kshs.420,312,323, which exceeded the initial loan limits by Kshs.219,615,242. Included in the loans were 5,070 persons not eligible for a loan.
- (b) 75 persons were issued loans amounting to Kshs.774,330, which exceeded the revised loan limits by Kshs.378,930.

This indicates that the system may not be properly configured to ensure that the loans disbursed do not exceed the loan limits.

202.9 Disbursement to Non-Compliant Customers

The only customers who are eligible to apply and receive loan disbursements are the customers who had opted into the Financial Inclusion Fund. However, it was noted that 1,304 persons were paid loans amounting to Kshs.1,744,155 yet the persons were not in the list of customers who opted in to benefit from the Fund. Further, it was observed that 808,047 persons were issued with initial loan disbursement amounting to Kshs.464,700,721 before they opted in to the financial service or product.

In the circumstances, it was not possible to confirm if the loan disbursements made to various customers complied with the regulations and whether the loans were accurate and free from manipulation.

203. Irregular Procurement of Service Providers

The State Department for Co-operatives received Kshs.12 billion from The National Treasury for the Fund's seed capital in the financial year 2022/2023. Subsequently, the State Department for Co-operatives disbursed Kshs.9.46 billion and Kshs.2.54 billion to the Kenya Commercial Bank and Family Bank, respectively, for onward transmission to the Telcos (Safaricom, Airtel and Telkom), for lending to the unserved and underserved

persons. However, Management did not provide procurement records to confirm how the service providers were identified.

Further, although Management explained that the service provider agreements were forwarded to the Attorney-General for comments before execution, the same had not been executed at the time of audit and were not provided for audit review.

In the circumstances, it is not possible to establish how the service providers were identified and contracted and whether the relevant provisions of law were followed.

204. Lack of ICT and Risk Management Policies

A review of records reveal that the Fund's Advisory Board was inaugurated in the month of March, 2023 after being gazetted in January, 2023. However, review of the internal controls at the Fund in the month of October, 2023 revealed that the Board and Management had not formulated and documented an ICT Policy and a Risk Management Policy. Therefore, there were no measures in place to mitigate against emerging risks in the Fund's day to day operations.

Consequently, the ability of the Fund Management to identify threats or risks and various strategies of minimizing their impact may be compromised.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

205. Because of the significance of the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

206. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

CO-OPERATIVE SOCIETIES LIQUIDATION ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

207. Inaccuracy of Cash and Cash Equivalents Balance

The statement of financial position reflects cash and cash equivalents balance of Kshs.27,031,912 as disclosed in Note 3 to the financial statements. However, disclosure Note 3 reflects a balance of Kshs.23,214,792 resulting in unreconciled variance of Kshs.3,817,120. Although Management explained the variance to be as a result of payments made from the liquidation account that ought to have been paid from the recurrent account, documentation to support the explanation was not provided for audit.

In the circumstances, the completeness and accuracy of cash and cash equivalents balance of Kshs.27,037,912 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

208. Late Submission of Financial Statements

The Management submitted the financial statements for audit on 26 October, 2023, which was twenty-seven (27) days after the statutory deadline of 30 September, 2023 contrary to Section 81(4)(a) of the Public Finance Management Act, 2012 which requires accounting officers to submit financial statements to the Auditor-General within three (3) months after the end of each financial year.

In the circumstances, the Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

209. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MANAGEMENT AND SUPERVISION FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

210. Inaccuracy of Cash and Cash Equivalents Balance

The statement of financial position and as disclosed and Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.3,296,598. However, the balance differs from the trial balance amount of Kshs.7,966,439 resulting in an unreconciled balance of Kshs.4,669,841. Further, the cash and cash equivalents opening balance is reflected as negative Kshs.2,133,610 against the audited balance of Kshs.2,536,210 resulting in an unreconciled variance of Kshs.4,669,840. In addition, the balance is maintained in the State Department for Co-operatives Deposit account contrary to Section 68(2)(b) of the Public Finance Management Act, 2012 which requires an accounting officer to ensure that the entity keeps financial and accounting records that comply with the Act.

In the circumstances, the completeness and accuracy of the reported cash and cash equivalents balance of Kshs.3,296,598 could not be confirmed.

211. Unsupported Debtors Balance

The statement of financial position and as disclosed in Note 7 to the financial statements reflects management and supervision fees-debtors balance of Kshs.10,219,347. However, the balance has not been supported by detailed analysis of the debtors. Further, the debt which has been outstanding for the last ten (10) years has been classified under current assets contrary to the provisions of paragraph 76(c) of the International Public Sector Accounting Standards No.1 which states that an asset shall be classified as current when it is expected to be realized within twelve months after the reporting date. Similarly, Management did not explain why these debts have not been collected and what effort is doing to ensure full recovery of the debts. Further no debt analysis was provided to support the debt balance.

In the circumstances, the completeness, accuracy and recoverability of the debtors balance of Kshs.10,219,347 could not be confirmed.

Other Matter

212. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness, Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved all the issues or given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

213. Non-Compliance with Co-operative Societies Rules

The statement of financial performance and as disclosed under Note 1 to the financial statements reflects receipts of Kshs.12,636,123 in respect of audit and supervision fees. Included in the amount is Kshs.1,050,000 relating to registration fees of three hundred and sixty (360) auditors. However, review of the records revealed that the Fund did not gazette the auditors contrary to the provisions of Rule No.16(1) of the Co-operative Societies Rules, 2004 which requires that the registered auditors be gazetted.

In the circumstances, Management was in breach of the law.

214. Failure to Remit Appropriation-In-Aid to The National Treasury

The statement of financial performance reflects total revenue from exchange transactions of Kshs.16,825,623. Examination of available records revealed that the Fund remitted Kshs.4,432,804 to The National Treasury as Appropriation-In-Aid (AIA) during the year under review representing 26% of the annual receipts' contrary to the provision of Rule No. (19)(1) of the Co-operative Societies Rules, 2004 which states that fifty percent of the annual receipts received by the Fund shall be payable half yearly to the Government as appropriations-in-aid.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

215. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COFFEE CHERRY ADVANCE REVOLVING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

216. Inaccuracies in the Financial Statements

The financial statements presented for audit had the following inaccuracies:

- i. The statement of financial position reflects comparative cash and cash equivalents balance of Kshs.2,917,791,246 while the corresponding Note 29 to the financial statements reflects comparative balance of Kshs.2,898,209,112 resulting to an unexplained and unreconciled variance of Kshs.19,852,134.

- ii. The statement of financial position reflects a comparative balance of Kshs.3,032,138,972 in respect to total net assets and liabilities. Recasting of balances yielded Kshs.3,025,381,696 resulting to an unexplained and unreconciled variance of Kshs.6,757,276.
- iii. The statement of financial position reflects a comparative current liabilities balance of Kshs.6,181,918 while the corresponding Note 43 to the financial statements reflects nil balance resulting to an unexplained and unreconciled variance of Kshs.6,181,918.
- iv. The statement of cash flows reflects net cash flows from operating activities of Kshs.135,151,796 while the corresponding Note 50 to the financial statements reflects an amount of Kshs.571,799,806 resulting to an unexplained and unreconciled variance of Kshs.436,648,010.
- v. The disclosure on capital risk management at Note 51(iv) to the financial statements reflects total Borrowings of Kshs.17,624,537 that has not been incorporated into the financial statements.

In the circumstances, the presentation, accuracy and completeness of the above balances as reflected in the financial statements could not be confirmed.

217. Long Outstanding Trade Receivables

The statement of financial position reflects receivables from exchange transactions and receivables from non-exchange transactions balances of Kshs.488,240,754 and Kshs.215,187,818 as disclosed in Note 30(d) and 31 to the financial statements respectively both totalling Kshs.703,428,572. However, included in Kshs.703,428,572 is Kshs.337,994,165 of receivables, which have been outstanding for more than one (1) year. Management did not provide explanation for the delays in recovery or actions being taken to recover the long overdue amounts. Further, no provisions for bad and doubtful debts have been made despite its doubtful nature.

In the circumstances, the accuracy and recoverability of the trade receivables balance of Kshs.703,428,572 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

218. Failure to Prepare Annual Workplan and Budget for the Fund

As previously reported, the Fund did not prepare annual work programme and budget for the financial year ended 30 June, 2023. In the foregoing circumstances, it was impossible to establish the Fund's approved activities and cost estimates thereof for the financial year under review as envisaged. This was contrary to Regulation 23(1) of the Public Finance Management (Coffee Cherry Advance Revolving Fund) Regulations, 2020 which states that, "at least six months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year". Further, Regulation 6(2) of the Public Finance Management (Coffee Cherry Advance Revolving Fund) Regulations, 2020 stipulates that the expenditure on the Fund

shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the Administrator at the beginning of every financial year and approved by the Board.

In the circumstances, Management was in breach of the law.

219. Irregular Investment of Undisbursed Funds in Call Account at a Commercial Bank

As previously reported the cash and cash equivalents balance of Kshs.2,286,286,291 includes an amount of Kshs.2,181,054,794 invested in call deposits, held in a Commercial Bank, as disclosed at Note 29 to the financial statements. This is contrary to The National Treasury Circular Ref. DMD 4/02 'H' (63) of 26 March, 2018 which directed all State Corporations and Semi-Autonomous Government Agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank of Kenya without intermediaries. All funds previously held in fixed deposits in commercial banks / financial institutions were not to be rolled over but retired and invested in Treasury bills / bonds.

Further, the balances held with the commercial banks on call deposit have accumulated unapplied interest of Kshs.181,054,794. Unapplied funds do not benefit from interest, unless rolled over as part of the principal balances. This has denied the Fund the benefit of a higher return on those unpaid Funds.

In the circumstances, Management was in breach of the law and value for money was not realized from unapplied interest that was not rolled over.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

220. There were no material issues relating to effectiveness of internal controls, risk management and governance.

YOUTH ENTERPRISE DEVELOPMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

221. Unconfirmed Receivables from Exchange Transactions

221.1 Non-Performing Loans

The statement of financial position and as disclosed in Note 17(a) to the financial statements reflects receivables from exchange transactions balance of Kshs.2,748,379,102. However, review of records revealed six (6) loan categories with an amount of Kshs.2,463,644,828 which had not been serviced for a period of more than three (3) years. In addition, the adequacy of a provision for bad and doubtful debts

amounting to Kshs.395,460,218 could not be established. Further, Management did not explain the actions being taken to recover the long outstanding amounts.

In the circumstances, the accuracy and completeness of the receivables from exchange transactions balance of Kshs.2,463,644,828 could not be confirmed.

221.2 Unidentified Loan Repayment

As previously reported, the statement of financial position and as disclosed in Note 17(a) to the financial statements reflects receivables from exchange transactions balance of Kshs.2,748,379,102. Included in the balance is an amount of Kshs.66,138,662 relating to loan repayments from unidentified borrowers, with some remaining unidentified for more than three (3) years. Management did not explain why reconciliations were not done in order to update and allocate borrowers accounts which could lead to misstatement of receivables from exchange transactions balance.

In the circumstances, the accuracy and completeness of the receivables from exchange transactions balance of Kshs.66,138,662 could not be confirmed.

221.3 Unrecovered Irregular Payment

As previously reported, the statement of financial position and as disclosed in Note 17(a) to the financial statements reflects receivables from exchange transactions balance of Kshs.2,748,379,102, out of which an amount of Kshs.180,363,789 was held by a commercial bank and was irregularly paid to a Company following award of a supply's contract. This led to conviction of the Company and its Directors for conspiracy to commit an economic crime, unlawful acquisition of public property and falsifying documents. However, there was no evidence to indicate that the amount will be repaid to the Fund and therefore its recoverability is doubtful. In addition, no provision for bad and doubtful debts was made for this amount.

In the circumstances, the accuracy and completeness of the receivables from exchange transactions balance of Kshs.180,363,789 could not be confirmed.

222. Unconfirmed Inventories

The statement of financial position and disclosure Note 19 to the financial statements reflects inventories balance of Kshs.36,600,500 which has been brought forward from the previous financial year. The balance relates to automatic hatching machines that were procured during the financial year 2012/2013. The stock take report for the period ended 30 June, 2023 reflects that eight hundred and fifty-three (853) and fifty-two (52) pieces were being held at the National Youth Service (NYS) Ruaraka and NYS Mtongwe respectively, and they have been carried forward throughout the years without being disposed. Further, it was noted that despite the inventories being slow moving and likely to be impaired, no provision for impairment has been made.

In the circumstances, the accuracy and completeness of inventories balance of Kshs.36,600,500 could not be confirmed.

Emphasis of Matter

223. Going Concern

I draw your attention to Note 24 to the financial statements which indicates that the Fund has been reporting losses over the past years. During the year under review, the Fund had an improved performance, reporting a surplus of Kshs.5,168,982 compared to deficit of Kshs.123,233,755 in the previous year.

The poor performance over the last seven years has eroded the capital invested in the revolving Fund and impaired the ability of the Fund to discharge its mandate. This also casts significant doubt on the Fund's ability to sustain its services in the foreseeable future.

224. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects recurrent budget final and actual receipts on a comparable basis of Kshs.393,379,329 and Kshs.380,515,075 respectively resulting to an under-performance of Kshs.12,864,254 or 3% of the budget.

Similarly, the Fund spent Kshs.375,346,094 against an approved budget of Kshs.393,379,329 resulting to an under-expenditure of Kshs.18,033,235 or 5% of the budget. The underfunding and under expenditure in recurrent vote affected the planned activities and may have impacted negatively on service delivery to the public.

Further, the statement reflects development final budget and actual receipts on a comparable basis of Kshs.533,750,000 and Kshs.278,352,104 respectively resulting to an under-funding of Kshs.255,397,896 or 48% of the budget. Similarly, the Fund spent Kshs.147,006,336 against an approved budget of Kshs.533,750,000 resulting to an under-expenditure of Kshs.386,743,664 or 72% of the budget.

The underfunding and under-expenditure in development vote affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

225. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance which have remained unresolved as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

226. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT
AND GOVERNANCE

Conclusion

227. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR LABOUR AND SKILLS DEVELOPMENT – VOTE 1184

OCCUPATIONAL SAFETY AND HEALTH FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

229. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

230. Risk Management and Governance

The Occupational Safety Health Act, 2007 which gives autonomy of the Fund's operations has not been operationalized and the Directorate of Occupational Safety Health Services, which manages the activities of the Fund, operates as a department of the State Department for Labour, instead of being an independent Semi-Autonomous Government Agency.

Further, the National Occupational Safety Health Policy (NAOSH), 2012, which guides the operations of the Fund do not include the emerging issues on safety and risk management. Similarly, Management of the Occupation and Safety Health Fund had not implemented an automated Occupational Safety Health Management Information System (OSHMIS), which enhances data management for improved service delivery by the Fund.

In addition, the Directorate had a work force of two hundred and twenty-six (226) staff against the approved staff establishment of five hundred and twenty-nine (529).

In the circumstances, the effectiveness of internal controls and overall governance of the Fund could not be confirmed.

**STATE DEPARTMENT FOR SOCIAL PROTECTION AND SENIOR
CITIZEN AFFAIRS – VOTE 1185**

**NATIONAL ASSISTANCE TRUST FUND FOR VICTIMS OF
TRAFFICKING IN PERSONS**

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

232. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects the total actual expenditure of Kshs.20,439,075 against actual receipts of Kshs.20,000,000 resulting in an over-expenditure of Kshs.439,075. However, the Fund did not prepare an itemized budget contrary to Regulation 32(4) of the Public Finance Management (National Government) Regulations, 2015 which requires that budgeted proposals be submitted in the prescribed formats that support program-based budgeting and classification of expenditure in economic classes. Further, the statement indicates that the Fund incurred under-expenditures of Kshs.1,353,750 and Kshs.560,168 in respect of board expenses and general expenses equivalent to 34% and 28% of the budgeted amount respectively. In addition, the Fund overspent on program items by Kshs.2,352,993 or 17% of the budget. Management did not provide approvals and explanations for the variances between the approved budget and actual amounts for the year under review.

In the circumstances, the effectiveness and efficiency of the budgetary-making process of the Fund could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

233. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

234. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STREET FAMILIES REHABILITATION TRUST FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

235. Lack of Land Ownership Documents

The statement of financial position reflects a property, plant and equipment balance of Kshs.52,369,789 as at 30 June, 2023. However, the value excludes various parcels of land that have no ownership documents as indicated below:

235.1 Land Donated by the Kenya Pipeline Company Limited

As previously reported, Kenya Pipeline Corporation donated and surrendered to the Fund a piece of land on 23 August, 2007 vide a letter Ref. No. LE/LA/ 25/4 addressed to the Commissioner of Lands by the Managing Director of the Company. The title deed was surrendered to the Commissioner of Lands on 6 August, 2007 for the purposes of transferring and registering the property in the name of the Trust Fund. Further, review of the status in October, 2023 revealed that the land had not been transferred to the Fund and had been encroached upon by third parties.

235.2 Parcels of Land in Embu, Murang'a and Laikipia

As previously reported, available information indicates that the defunct Local Authorities of Embu, Murang'a and Laikipia Counties informally allocated land to the Street Families Rehabilitation Trust Fund as captured in the Minutes dated 19 September, 2016. However, review of the matter revealed that the Fund had neither identified the locations of these properties nor obtained their title deeds or any other legal/formal allocation documents. Further, Management had not demonstrated any efforts put in place to acquire ownership documents.

In the circumstances, the ownership, accuracy and completeness of the property, plant and equipment balance of Kshs.52,369,789 could not be confirmed.

236. Failure to Value Land

The statement of financial position and as disclosed in Note 8 to the financial statements reflects an amount of Kshs.38,000,000 for land at the initial cost or purchase price in 2013. However, Management had not revalued the land for the last ten (10) years to take cognizance of the drastic change in value of its land. This was contrary to International Accounting Standards No.16 which requires that property, plant and equipment be revalued after every three (3) or five (5) years. The encroachment of the land could have impaired the value of the land.

In the circumstances, the reported land balance of Kshs.38,000,000 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

237. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

238. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR PETROLEUM – VOTE 1194

PETROLEUM DEVELOPMENT LEVY FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

239. Inaccuracies in Receipts

The statement of financial performance reflects total receipts totalling Kshs.22,566,128,572. However, review of bank statements revealed total receipts amounting to Ksh.22,591,370,481 resulting to an unexplained variance of Ksh.25,241,909.

In the circumstances, the accuracy and completeness of receipts amounting to Kshs.22,566,128,572 could not be confirmed.

240. Unsupported Stabilization of Petroleum Pump Prices Payments

The statement of financial performance reflects transfers to other Government entities amounting to Kshs.22,330,147,344, as disclosed in Note 3 to the financial statements. The amount includes Kshs.20,360,000,000 in respect of transfer to the Ministry of Petroleum and Mining - fuel subsidy (recurrent account). However, review of the fuel subsidy program revealed the following weaknesses and anomalies:

- i. During the year under review, a Multi-Agency Team was established by the Cabinet Secretary for Energy and Petroleum in line with The National Treasury recommendation communicated in July, 2022. However, the team was yet to review the total resource requirement and assess the sustainability of the fuel price stabilization programme in line with The National Treasury recommendation. This was despite continued funding requests for petroleum price stabilization during the year under review.
- ii. There was no governance framework for stabilization of fuel prices and compensation mechanisms as required by the Petroleum Development Levy Order, 2020 and The National Treasury recommendation.
- iii. An amount of Kshs.151,119,472 was paid in respect of pump prices stabilization of petroleum products imported under Government-to-Government (G to G) oil importation arrangement. However, importation agreement documents such as master framework agreements, operational agreement and letters of support issued by the Government to two (2) International Oil Companies were not provided for review. In addition, no records on volumes imported and stabilized under the program were provided for review.

In the circumstances, the accuracy, completeness, and regularity of subsidy payments totalling Kshs.20,360,000,000 could not be confirmed.

241. Unaccounted for Expenditure and Transfers to Other Government Entities

The statement of receipts and payments and Note 3 to the financial statements reflects an amount of Kshs.22,330,147,344 in respect of transfers to other Government entities. The balance includes an amount of Kshs.220,000,000 and Kshs.75,000,000 transferred to the National Oil Corporation of Kenya (NOCK) and the Energy and Petroleum Regulatory Authority (EPRA) respectively. However, approved budgets from the two entities, work plans and cost statements for oil and gas exploration activities, oil exploration and monitoring reports to support the transfers were not provided for audit. In addition, no documentation including the framework agreement for the transfer was provided in support of the amount.

Further, Management transferred a total of Kshs.1,675,147,344 from the Fund to the State Department for Petroleum development account during the year. However, no supporting evidence was provided for audit, to demonstrate that the transferred funds were used in accordance with Section 4(4) of the Petroleum Development Act, 1991 states that; "there shall be paid out of the Fund such monies as necessary for development of common facilities for distribution or leasing of oil products and for matters relating to development of oil industry as the Minister may direct." Further, the Petroleum Development Levy Order No.124 issued on 10 July, 2020 provided that the levy should be used for matters relating to development of the oil industry including stabilization of local petroleum pump prices.

In the circumstances, the accuracy, completeness, and regularity of transferred amount of Kshs.22,330,147,344 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

242. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

243. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PETROLEUM TRAINING LEVY FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

244. Long Outstanding Receivables

The statement of financial position reflects a balance of Kshs.4,006,673,802 in respect of other receivables, as disclosed in Note 17.8 to the financial statements. The balance includes Ksh.3,969,712,874 in respect to fines, penalties and levies, outstanding from previous years, which were due from nine (9) oil companies that had operated eighteen (18) oil blocks which have been long outstanding. Further, two (2) of the nine (9) contractors who had an outstanding training and surface fee amounting to USD 925,751.10 (equivalent to Kshs.130,021,742) had relinquished their blocks to the Government while the other seven (7) were still active as at the end of the year under review.

In addition, two contractors who relinquished their blocks in prior years were discharged before settling the outstanding training levy and surface fees. The Management did not provide support evidence to demonstrate measures taken to recover the long outstanding fees.

In the circumstances, the recoverability of accounts receivables balance of Kshs.4,006,673,802 remains doubtful.

245. Unaccounted for Expenditure

The statement of financial performance reflects an amount of Kshs.115,950,781 in respect of transfer to other Government units, as disclosed in Note 17.6 to the financial statements. The amount includes Kshs.30,000,000 transferred to the National Oil Corporation of Kenya for training activities during the year under review. However, the amount was not reflected in the Company's financial statements. Further, detailed expenditure returns, approved training plans, training attendance registers, travel documents and proof of venues used for training to indicate how the funds were utilized by the Corporation were not provided for audit review.

In the circumstances, it was not possible to confirm whether the funds were received by the Corporation and utilised for training of employees in upstream petroleum operations as provided for in the Act.

246. Inaccuracies in Revenue from Non-Exchange Transactions

The statement of financial performance reflects receipts of Kshs.176,826,504 from fines, penalties and levies under revenue from non-exchange transactions (2022 - Kshs.21,726,282). The receipts comprise of Kshs.119,623,306 and Kshs.57,203,198 in respect to training levy and surface fees respectively. According to Section 52(3) of the Petroleum Act, 2019, the Fund comprises of funds raised from contractors as training contribution. Effectively, amounts collected in respect of surface fee do not comprise the

Training Fund revenue and ought to have been accounted for under the State Department as Appropriation-In-Aid or surrendered to the Exchequer. However, the financial statements of the Fund recognised the amounts received in respect of surface fee but did not recognise an accrued transfer to The National Treasury expense and the corresponding liability under accounts payable in the statement of financial position as at 30 June, 2023.

In addition, the increase of the levies for the Oil Company - Training Levy from Kshs.18,630,000 to Kshs.119,623,306 and surface fee from Kshs.3,096,282 to Kshs.57,203,198 have not been explained or reconciled despite the fact that fines, penalties and levies recovered from the oil Companies have increased by over 92%.

In the circumstances, the accuracy of the revenue from non-exchange transactions of Kshs.57,203,198 from surface fees included in the statement of financial performance for the year under review could not be confirmed.

Other Matter

247. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or explained contrary to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circulars.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

248. Irregular Expenditure

The statement of financial performance reflects expenditure of Kshs.278,274,314 in respect of general expenses, as disclosed in Note17.5 to the financial statements. The amount includes training expenses expenditure of Kshs.273,003,670. Review of documents provided in support of the expenditure revealed an amount of Kshs.16,496,900 which was incurred on payment of allowances to staff members for activities that did not relate to the Fund such as review of organizational structure and pre-retirement seminar for senior executives.

In the circumstances, the regularity of expenditure of Kshs.16,496,900 incurred on training could be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

249. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR GENDER AND AFFIRMATIVE ACTION – VOTE 1212

UWEZO FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

250. Long Outstanding Receivables – Outstanding Loans

The statement of financial position and as disclosed in Note 16 to the financial statements reflects long-term receivables - outstanding loans balance of Kshs.4,826,616,733. However, the Fund's overall loan performance indicates loan disbursements and repayments of Kshs.6,729,872,949 and Kshs.2,874,370,396 respectively resulting in unpaid amount of Kshs.3,855,502,553 or 57% of the loan amount. No adjustments have been made by way of provision for bad and doubtful debts to the loan balance in recognition of the doubtfulness.

In the circumstances, the accuracy and fair statement of the long term receivables – outstanding loans balance of Kshs.4,826,616,733 as at 30 June, 2023 could not be confirmed and the recoverability is in doubt.

Emphasis of Matter

251. Budgetary Control and Performance

I draw attention to the statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.362,993,319 and Kshs.169,870,107 respectively resulting to under-expenditure of Kshs.193,123,212 or 53% of the budget.

The under-expenditure affected the planned activities which may have impacted negatively on the service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

252. Unresolved Prior Year Matters

In the audit report of previous year, issues were raised under the Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues remain unresolved as it has not been concluded by the relevant Parliamentary Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

253. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

254. Staff Under-Establishment

The Fund had in post twenty-one (21) staff representing 30% of its approved establishment of seventy (70) members of staff. Review of records indicated that the low staffing number is attributed to the inability by the Fund to recruit its staff. Further, most of staff in-post are on secondment from the State Departments.

Failure to adequately staff the Fund with staff with requisite skills and tenure of service may impede its effective service delivery to the citizens.

STATE DEPARTMENT FOR PUBLIC SERVICE – VOTE 1213

NATIONAL YOUTH SERVICE - MECHANICAL AND TRANSPORT FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

255. Unsupported Receivables

The statement of financial position reflects receivables from exchange transactions and receivables from non-exchange transactions of Kshs.691,766,189 and Kshs.1,190,416,159 respectively as disclosed in Note 16 and 15 to the financial statements. The receivables from the balance of the non-exchange transactions relate to debts from National Youth Service (NYS) Units. However, the balance was not supported by a detailed listing or ledger. Further, included in the receivables from exchange transactions of Kshs.691,766,189 is an amount of Kshs.432,163,530 and Kshs.95,263,645 brought forward from 2021/2022 owed by the disbanded Nairobi Metropolitan Services (NMS) and other debts respectively, which have been outstanding for more than 120 days. Although the recoverability of these receivables is doubtful, no provision for bad and doubtful debts was made to recognize possible impairment of the debts.

In the circumstance, the accuracy, completeness and recoverability of the receivables totalling Kshs.1,882,182,348 could not be confirmed.

256. Unconfirmed Property, Plant and Equipment Balance

The statement of financial position reflects a property, plant and equipment balance of Kshs.3,154,440,830 as at 30 June, 2023. As disclosed in Note 18 to the financial statements, the balance includes plant and machinery, heavy commercial vehicles and light motor vehicles amounts of Kshs.2,229,805,201, Kshs.759,260,533 and Kshs.162,410,767 respectively. However, as previously reported, the Management had not valued the assets for financial reporting purposes since inception and the depreciation policy has not been approved by Council. Further, furniture and fittings such as executive tables, chairs and cabinets have not been tagged with unique identification numbers.

In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.3,154,440,830 could not be confirmed.

Other Matter

257. Unresolved Prior Year Audit Issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

258. Grounded Motor Vehicles, Plant and Equipment

As previously reported, the Fund's assets register revealed that one hundred and thirty (130) motor vehicles, plant machinery and equipment have been grounded for a long time due to various mechanical reasons. Management has not made any efforts to repair or to seek approval for the disposal of the assets.

In the circumstances, the assets continue to deteriorate and any salvage value that could have been realized may be lost.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

259. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE LAW OFFICE AND DEPARTMENT OF JUSTICE – VOTE 1252

CRIMINAL ASSETS RECOVERY FUND - ASSETS RECOVERY AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

260. Unsupported Cash and Cash Equivalents

The statement of financial position and as disclosed in Note 10 to the financial statements reflect cash and cash equivalents balance of Kshs.703,959,433. Management did not provide the cash book, corresponding bank confirmation certificate and bank reconciliation statement in support of the balance.

In the circumstances, the accuracy of the reported cash and cash equivalents balance of Kshs.703,959,433 as at 30 June, 2023 could not be confirmed.

261. Inaccuracies in the Financial Statements

The statement of financial performance reflects surplus for the year before taxation of Kshs.1,134,797 which differs with the recasted surplus before taxation of Kshs.1,703,985 resulting in an unexplained and unreconciled variance of Kshs.569,188. Further, the statement reflects surplus for the year of Kshs.1,541,028 while the recomputed surplus amounts to Kshs.1,534,349 resulting in an unexplained and unreconciled variance of Kshs.6,679.

In addition, the statement of cash flow reflects proceeds from preserved assets of negative Kshs.79,270,266 which has not been supported.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

262. Unconfirmed Forfeited Movable and Immovable Assets Balance

The statement of financial position reflects property, plant and equipment balance of Kshs.402,604,000 and as disclosed in Note 11 to financial statements. The balance comprises of forfeited and preserved movable and immovable assets valued at Kshs.2,850,000 and Kshs.399,754,000 respectively whose ownership remains undetermined until all the judicial appeal process has been exhausted. Further, included in the Assets Recovery Agency's movable and immovable assets schedule are five (5) movable and three (3) immovable forfeited assets of undetermined value that have not been valued and incorporated in the financial statements.

In the circumstances, the accuracy and fair statement of the property, plant and equipment balance of Kshs.402,604,000 as at 30 June, 2023 could not be confirmed.

263. Overstated Preserved Assets

The statement of financial position reflects preserved assets balance of Kshs.1,074,366,136 and as disclosed in Note 12 to financial statements. The balance includes forfeited movable assets valued at Kshs.2,850,000 whose judicial appeal process had been closed as at 30 June, 2023 but had not been incorporated into the Fund financial statements as equity.

In the circumstances, the reported preserved assets balance of Kshs.1,074,366,136 as at 30 June, 2023 is overstated.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

264. Non-Submission of Bank Reconciliation Statements to The National Treasury

During the year under review, the Fund Management did not submit bank reconciliation statements for accounts held at Kenya Commercial Bank for each month. This was contrary to Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015. The Regulation provides that Accounting Officers shall ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer, every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to The National Treasury with a copy to the Auditor-General.

In the circumstances, Management was in breach of the law.

265. Failure to Maintain Fund Records

The Fund Management did not maintain Fund records during the year under review. This was contrary to Regulation 100 of the Public Finance Management (National Government) Regulations, 2015. This Regulation stipulates that Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible.

In the circumstances, Management was in breach of the law.

266. Failure to Maintain Revenue Records

Management did not maintain records for the rental income collected from the preserved and the forfeited assets contrary to Regulation 23(1) (d) of the Public Finance Management (National Government) Regulations, 2015. This Regulation states that the Accounting Officers shall, in accordance with Article 226(2) of the Constitution, be accountable to the National Assembly for measures taken to prepare the financial reports that reflect a true and fair financial position of the entity.

In the circumstances, Management was in breach of the law.

267. Failure to Implement Court Order on Depositing of Funds in an Escrow Account

The High Court vide Gazette Notice number VOL.CXVIII-NO. 137 dated 8 November, 2016 on miscellaneous application number 32 of 2016 held in High Court of Kenya Nairobi at Anti-Corruption and Economic Crimes Court issued orders for the deposit of Kshs.8,800,000 into an escrow account in the joint names of the Agency and the second respondent within the next thirty (30) days pending the hearing and determination of the matter. However, only deposit amounting to Kshs.1,200,000 was made into the escrow account leaving a balance of Kshs.7,600,000 uncollected as at 30 June, 2023.

In the circumstances, Management was in breach of the Court order.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

268. There were no material issues relating to effectiveness of internal controls, risk management and governance.

269. Prior Year Audit Matters

The Management of Criminal Assets Recovery Fund presented for audit financial statements for 2021/2022 on 2 October, 2023, while financial statements for financial years 2018/2019, 2019/2020 and 2020/2021 were presented for audit on 22 December, 2023. The four financial statements were audited in January, 2024 and the anomalies observed are as summarized below.

Report on the Financial Statements;

- i. Inaccuracies in the financial statements,
- ii. Unconfirmed forfeited movable and immovable assets, and
- iii. Overstated preserved assets.

Report on Lawfulness and Effectiveness in Use of Public Resources;

- i. Late submission of financial statements,
- ii. Non-submission of bank reconciliation statements to The National Treasury, and
- iii. Failure to maintain Fund records.

Report on The Effectiveness of Internal Controls, Risk Management and Governance;

- i. Failure to maintain a register for forfeited and preserved assets.

THE JUDICIARY – VOTE 1261

THE JUDICIARY FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

271. Preparation of Financial Statements

The Judiciary Fund was established by Article 173 of the Constitution and was operationalized in the financial year 2022/2023 as per the Judiciary Fund Act, 2016 and Judiciary Fund Regulations, 2019. During the year under review, the Judiciary Fund received Exchequer receipts totalling Kshs.20,235,193,180 and transferred the same amount to The Judiciary to fund its operations. According to Section 6 of the Judiciary Fund Act, 2016, the Fund shall be used to defray the administrative expenses of the Judiciary and for the acquisition and proper maintenance of buildings, grounds and other assets of the Judiciary.

However, no explanation was provided on why the Judiciary prepared and submitted for audit separate financial statements for the year ended 30 June, 2023 instead of preparing one set of financial statements for the Judiciary Fund as required by Section 10 of the Judiciary Fund Act, 2016.

In the circumstances, Management was in breach of the law.

272. Late Submission of Financial Statements

The Judiciary Fund financial statements for the year ended 30 June, 2023 were submitted for audit on 15 December, 2023 which was two and half months after the deadline of 30 September, 2023. This was contrary to Section 68 (2) (k) of the Public Finance Management Act, 2012 which requires Accounting Officers to prepare and submit the annual financial statements for each financial year to the Auditor-General within three months after the end of the financial year for audit.

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

273. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL INTELLIGENCE SERVICE – VOTE 1281

INTELLIGENCE SERVICE DEVELOPMENT FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

275. Delay in Transfer of Fixed Assets

As previously reported and disclosed in Note 16 to the financial statements, Management is in the process of winding-up of the Fund in adherence with the provisions of Regulation 207 (1)(i) of the Public Finance Management (National Government) Regulations, 2015 which states that the initial approval for establishment of a national public Fund shall be for a maximum period of ten (10) years. The Fund's bank account has been closed and the acquired property, plant and equipment is in the process of being transferred to National Intelligence Service. However, the Assets have not been transferred and the Fund wound up as the office is still awaiting approvals from the Cabinet Secretary, Ministry of Interior and National Administration.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

276. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

277. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES – VOTE 1311

THE POLITICAL PARTIES FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

279. Underfunding of the Political Parties

I draw attention to the statement of comparison of budget and actual amounts which reflects actual revenue receipts from transfers from other government entities of Kshs.884,354,000. However, the amount received was not in compliance with Section 24 (1) (a) of the Political Parties Act, 2011, (Rev. 2022) on funding of political parties which stipulates that allocation will be at least 0.3% of all the National Government's share of revenue as per the annual Division of Revenue Act. The underfunding may have impacted negatively on the planned activities for the forty-nine (49) eligible political parties to receive the funding.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

280. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

281. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARLIAMENTARY SERVICE COMMISSION – VOTE 2041

PARLIAMENTARY CATERING FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

282. Undisclosed and Long Outstanding Account Receivables

The statement of financial position and as disclosed in Note 11 to the financial statements reflects receivables from exchange transactions balance of Kshs.57,126,698. Included in this balance is Kshs.54,511,383 owed to the Fund by Parliamentary Joint Services/CPST, National Assembly and Senate of Kshs.16,562,640, Kshs.12,439,705 and Kshs.25,509,038, respectively. However, the outstanding balances have not been disclosed in the respective financial statements of the three (3) institutions as pending bills.

Further, included in the balance is an amount of Kshs.2,486,630 relating to debts, which have been outstanding for more than two (2) years, whereas the disclosure Note 11 indicates that all receivables were under twelve (12) months old. The recoverability of the debts is doubtful and there was no documentary evidence provided for audit to confirm that there were efforts made to collect the amount. In addition, no adjustments were made to the financial statements by way of provision for doubtful debts.

In the circumstances, the accuracy, existence and fair statement of the reported receivables from exchange transactions balance of Kshs.57,126,639 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

283. Irregular Procurement of Goods and Services

The statement of financial performance and as disclosed in Note 8 to the financial statements reflects an amount of Kshs.95,719,457 in respect to use of goods and services. Examination of sampled payment vouchers amounting to Kshs.9,952,516 revealed goods and services which were delivered, after the expiry of the validity period of the Local Purchase Order (LPO).

In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

284. There were no material issues relating to effectiveness of internal controls, risk management and governance.

Appendices

Appendix A: Unmodified Opinion

No. National Government Funds

1. Equalisation Fund – The National Treasury
2. Contingencies Fund – The National Treasury
3. Petroleum Development Levy Fund (Holding Account) – The National Treasury
4. Asian Widows' and Orphans' Pensions Fund – The National Treasury
5. Rural Enterprise Fund – The National Treasury
6. African Union and Other International Organizations Subscription Fund – The National Treasury
7. Public Service Superannuation Fund – The National Treasury
8. National Government Constituencies Development Fund – Central Bank of Kenya – State Department for Economic Planning
9. National Humanitarian Fund – State Department for Interior and Citizen Services
10. National Drought Emergency Fund – State Department for Development of the Arid and Semi-Arid Lands
11. Roads Annuity Fund – State Department for Roads
12. Kenya Slum Upgrading Low Cost Housing and Infrastructure Trust Fund – State Department for Housing and Urban Development
13. State Officers House Mortgage Scheme Fund – State Department for Housing and Urban Development
14. Petroleum Development Fund – State Department for Energy
15. Kenya Energy Sector Environment and Social Responsibility Programme Fund – State Department for Energy
16. Occupational Safety and Health Fund – State Department for Labour and Skills Development
17. National Assistance Trust Fund for Victims of Trafficking in Persons – State Department for Social Protection and Senior Citizen Affairs
18. The Judiciary Fund – The Judiciary
19. Intelligence Services Development Fund – National Intelligence Service
20. The Political Parties Fund – Office of the Registrar of Political Parties

Appendix B: Qualified Opinion

No. National Government Funds

1. State Officers and Public Officers Motor Car Loan Scheme Fund – The National Treasury
2. Provident Fund – The National Treasury
3. European Widows and Orphans Pensions Fund – The National Treasury
4. Asian Officers Family Pensions Fund – The National Treasury
5. Women Enterprise Fund – State Department for Economic Planning
6. National Government Affirmative Action Fund – State Department for Economic Planning
7. Government Press Fund – State Department for Interior and Citizen Services
8. Prison Industries Revolving Fund – State Department for Correctional Services
9. Prison Farms Revolving Fund – State Department for Correctional Services
10. Mechanical and Transport Fund – State Department for Roads
11. Railway Development Levy Fund (Holding Account) – State Department for Transport
12. Civil Servants Housing Scheme Fund – State Department for Housing and Urban Development
13. Land Settlement Fund – State Department for Lands and Physical Planning
14. Sports, Arts and Social Development Fund – State Department for Sports and the Arts
15. Veterinary Services Development Fund – State Department for Livestock
16. Fish Levy Trust Fund – State Department for the Blue Economy and Fisheries
17. Commodities Fund – State Department for Crop Development
18. Agricultural Information Resource Centre Revolving Fund – State Department for Crop Development
19. Co-operative Societies Liquidation Account – State Department for Co-operatives

20. Management and Supervision Fund – State Department for Co-operatives
21. Coffee Cherry Advance Revolving Fund - State Department for Co-operatives
22. Street Families Rehabilitation Trust Fund – State Department for Social Protection and Senior Citizen Affairs
23. Petroleum Development Levy Fund – State Department for Petroleum
24. Petroleum Training Levy Fund – State Department for Petroleum
25. Uwezo Fund – State Department for Gender and Affirmative Action
26. National Youth Service - Mechanical and Transport Fund – State Department for Public Service
27. Youth Enterprise Development Fund – State Department for Co-operatives
28. Criminal Assets Recovery Fund – Assets Recovery Agency – State Law Office and Department of Justice
29. Parliamentary Catering Fund – Parliamentary Service Commission

Appendix C: Adverse Opinion

No. National Government Funds

1. Treasury Main Clearance Fund – The National Treasury

Appendix D: Disclaimer of Opinion

No. National Government Funds

1. Financial Inclusion Fund – State Department for Co-operatives
2. Government Clearing Agency Fund – The National Treasury
3. Kenya Local Loans Support Fund – The National Treasury
4. Stores and Services Fund – State Department for Public Works