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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION (2025)

PUBLIC INVESTMENTS COMMITTEE

ON

COMMERCIAL AFFAIRS AND ENERGY

THIRD REPORT


OF

THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY

ON EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE

FINANCIAL STATEMENTS OF SELECTED STATE CORPORATIONS

(ROADS AND TRANSPORT SECTOR)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 14 OCT 2025	DAY: Tuesday
TABLED BY:	Hon. David Phiri Chairman

DIRECTORATE OF AUDIT, APPROPRIATIONS & GENERAL PURPOSE COMMITTEES

THE NATIONAL ASSEMBLY

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LIST OF ABBREVIATIONS AND ACRONYMS

CEO	-	Chief Executive Officer
CS	-	Cabinet Secretary
DCI	-	Directorate of Criminal Investigations
EACC	-	Ethics and Anti-Corruption Commission
FY	-	Financial Year
GoK	-	Government of Kenya
IAS	-	International Accounting Standards
IFRS	-	International Financial Reporting Standards
IPSAS	-	International Public Sector Accounting Standards
Kes/ Kshs.	-	Kenya Shillings
OAG	-	Office of the Auditor General
PFMA	-	Public Finance Management Act, No. 18 of 2012
PPAD	-	Public Procurement and Asset Disposal Act, No. 33 of 2015
PS	-	Principal Secretary
PSASB	-	Public Sector Accounting Standards Board
KURA	-	Kenya Urban Roads Authority
NAMATA	-	Nairobi Metropolitan Authority
CoK 2010	-	Constitution of Kenya, 2010
KeRRA	-	Kenya Rural Roads Authority
LCDA	-	Lapsset Corridor Development Authority
KPA	-	Kenya Ports Authority
KCAA	-	Kenya Civil Aviation Authority
AGOL	-	African Gas and Oil Company Limited
KRB	-	Kenya Roads Board
KPLC	-	Kenya Power and Lightning Company
LAPSSET	-	Lamu Port-South Sudan – Ethiopia Transport Corridor
KWS	-	Kenya Wildlife Service

CHAIRPERSON'S FOREWORD

The Public Investments Committee on Commercial Affairs & Energy (hereinafter referred to as "the Committee" is one of the six 'Watchdog Committees' in the thirteenth Parliament that examine reports of the Auditor-General laid before the National Assembly to ensure probity, efficiency and effectiveness in the use of public funds. The Committee is established pursuant to National Assembly Standing Order 206A to examine the working of public investments based on their audited reports and accounts. This ensures implementation of *Article 229(8)* of the Constitution of Kenya, 2010, on reports laid before the House by the Auditor-General. The Committee was hived off the hitherto singular Public Investments Committee, alongside two others, for the efficiency of examination of audit reports.

In examining the accounts of the Auditor General, the Committee invited Accounting Officers in each of the state corporations under review to adduce evidence before it.

This report contains observations, findings and recommendations arising from examination of reports of the Auditor-General for seven (7) State Corporations for three financial years running up to the latest, FY 2021/2022. The report is structured as follows:

- i) general observations arising from recurring and cross-cutting audit queries;
- ii) recommendations to each of the above;
- iii) audit queries identified by the Auditor General in the audit reports of each state corporation;
- iv) Management Responses to each of the queries;
- v) Committee Observation on each query; and
- vi) recommendations of the Committee to each query raised.

In this report, the Committee makes policy recommendations that it deems will cure financial and audit challenges, and at the same time recommends specific actions against specific officers who may have acted contrary to the law. It further recommends further investigations of certain matters by the relevant investigative agencies, such as the EACC and the DCI. All this is geared towards ensuring prudent use of public resources and holding all persons that have misappropriated public funds accountable, in accordance with *Article 226 (5)* of the Constitution.

EXECUTIVE SUMMARY

The 3rd report of the Public Investments Committee on Commercial Affairs & Energy (PIC-C&E) contains the Committee's examination of audited financial statements of seven (7) State Corporations.

In its examination and scrutiny of the audited financial statements of the various State Corporations, the Committee's primary approach was to elicit background information as to why particular course of financial and/or management actions were or were not taken. This was done with the relevant public financial management principles in mind, including, the Constitution of Kenya, 2010, the Public Audit Act, 2015, the Public Finance Management Act, 2012, and the attendant regulations, Public Procurement & Asset Disposal Act, 2015 and the attendant regulations, the International Public Sector Accounting Standards (IPSAS) and International Financial Reporting Standards (IFRS) relevant for commercial state corporations.

The preface of the report contains preliminaries on the establishment of the Committee; its membership and secretariat; mandate, and the guiding principles governing the Committee while undertaking its mandate.

Part two of this report contains the committee's general observations/findings on cross-cutting issues and their recommendations.

Part three of this report contains reports of the specific state corporations whose financial statements were examined; the financial years considered in each state corporation; the specific audit reservations raised by the Auditor General in each financial year; *Management Response* to each audit reservation raised by the Auditor General; *Committee Observation* after considering each audit reservation; and finally, *Committee Recommendations* on each audit query.

good the loss, whether the person remains the holder of the office or not (Article **226(5)**).

Article 227 deals with the procurement of public goods and services. Article 227 (1) in particular, provides that “when a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive, and cost-effective”.
the Public Finance Management Act, No. 18 of 2012

Section 68 sets out the responsibilities of accounting officers for national government entities, Parliament and the Judiciary. This includes accountability to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a lawful, authorized, effective, efficient, economical and transparent manner (section 68(1)).

Section 72 focuses on the accounting officers' responsibility to manage the assets and liabilities of national government entities.

3. Apart from the above-named laws, the Committee was further guided by the following: -

- i. The Parliamentary Powers and Privileges Act, No. 29 of 2017;
- ii. The Public Finance Management (National Government) Regulations, 2015;
- iii. The Public Procurement and Asset Disposal Act, No. 33 of 2015;
- iv. The Public Procurement and Asset Disposal Regulations, 2020;
- v. the State Corporations Act, No. 11 of 1986;
- vi. The Public Audit Act, No. 34 of 2015;
- vii. The Fair Administrative Action Act, No. 4 of 2015;
- viii. The Accountants Act, No. 15 of 2008; and
- ix. The National Assembly Standing Orders

1.3. Committee Secretariat

5. The Secretariat facilitating the Committee comprises the following technical staff: -

- | | | | |
|-------|----------------------|---|---|
| i. | Ms. Wanjiru Mwaura | - | Principal Clerk Assistant/ Team Leader |
| ii. | Mr. Andrew Kipchumba | - | Clerk Assistant III |
| iii. | Ms. Isabella Mwembi | - | Clerk Assistant III |
| iv. | Ms. Angela Musau | - | Legal Counsel II |
| v. | Mr. Brian Njeru | - | Fiscal Analyst II |
| vi. | Mr. Amos Tindi | - | Hansard Reporter II |
| vii. | Ms. Roselyne Ndegi | - | Senior Sergeant at Arms |
| viii. | Ms. Deborah Mupusi | - | Media Relations Officer II |
| ix. | Mr. Timothy Chiko | - | Research Officer III |
| x. | Ms. Mercylyn Kerubo | - | Audio Officer |
| xi. | Ms. Lily Cherotich | - | Protocol Officer |

2.0. GENERAL OBSERVATIONS AND RECOMMENDATIONS

10. In consideration of reports of various state agencies, the Committee encountered cross-cutting and at times recurring matters that make general observations and recommendations. Specific observations and recommendations are, however, made under each specific agency. In summary, the following are the general cross cutting issues observed affecting most agencies that were examined by the Committee: -

a. Poor Accounting Standards and General Incapacity of Some Accounting Officers

11. The Committee observed that, due to a laxity on the part of some Accounting Officers, some queries relating to accounting standards that ought to have been resolved during the audit process end up being subjected and culminating in Parliamentary scrutiny. In addition, some accounting officers were generally - non-compliant to various provisions of the Public Finance Management Act, Cap 412A, Public Audit Act, Cap 412B and the Regulations therein.
12. Audit queries spanning from the Financial Year 2018/19 remained unresponded to by some agencies, who were only triggered to action once invited by the Committee. This therefore affected the Committee's timelines in examining the audit queries as some of the submissions presented before the Committee were either insufficient or lacked concrete supporting evidence thereby necessitating the Committee to postpone examinations to allow the agencies to prepare effectively.
13. In view of the above, the Committee recommends that the accounting officers of the National Treasury, Inspectorate of State Corporations and the Office of the Auditor General to conduct annual sensitization and capacity building exercises to all accounting officers and finance staff in state corporations on matters relating to financial reporting including their responsibilities during the audit cycle and adherence to IPSAS.

b. Unsecured/ Untitled Land Holdings

14. The Committee also observed that there were cases where land held by various institutions lacked title documents. This has resulted to encroachment in some cases and land dispute cases that pose a potential risk of loss of land. The Committee recommends that the accounting officers of the National Lands Commission and the Ministry of Lands, Housing and Urban Development to

Governance. This has hampered their operations and promoted weak oversight in the management of the affairs of the agencies.

22. The Committee recommends that the Accounting Officers should proactively notify the parent Ministries on the status of the membership of the Boards and the appointing Authorities to ensure that the vacancies are filled without undue delay.

Summary of the Audit Queries

Institution/Agency	Financial Years	No. of Audit Queries	Resolved	Unresolved
Kenya Urban Roads Authority (KURA)	2020/2021, 2021/2022	42	12	30
Kenya Rural Roads Authority (KeRRA)	2020/2021, 2021/2022	28	19	9
LAPSSET Corridor Development Authority (LCDA)	2018/2019, 2019/2020, 2020/2021, 2021/2022	19	16	3
Kenya Ports Authority (KPA)	2019/2020, 2020/2021	69	53	16
Kenya Civil Aviation Authority (KCAA)	2018/2019, 2019/2020, 2020/2021, 2021/2022	31	13	18
Kenya National Highways Authority (KeNHA)	2020/2021, 2021/2022	40	19	21
Nairobi Metropolitan Area Transport Authority (NaMATA)	2019/2020, 2020/2021, 2021/2022, 2022/2022	19	8	11
TOTAL		248	140	108

section between the southern By-pass and Karen Shopping Centre and the section of Langata road loop were not complete despite the opening of the roads for public use, and road signs of the carriageway were missing, thus posing risks to road users.

28. In addition, the contract provided for five (5) footbridges, but none had been erected, and drainage works had not been completed. The contractor had suspended works due to outstanding payments of Kshs. 300,000,000.

Management Response

The Accounting officer submitted that—

29. It was true that the project implementation had been slow, mainly due to delayed payment to the contractor for certified Works.
30. Major road works and drainage works, including road marking and road signs, have since been completed. However, the construction of three (3) foot bridges commenced and are currently in progress. For the remaining two (2) foot bridges and barriers, the contractor is still on site and plans are underway to commence works once payment for the outstanding is made.
31. Further, walkway construction was prioritized on sections with high pedestrian flow, with the remaining sections planned to be completed as soon as the pending bill is settled. The project has an outstanding pending bill of Kshs. 272,125,309.80. For the contract period, the Contractor was granted an Extension of Time.

Current Physical Progress: 95%

Current Pending Bill: KES 272,125,309.80

Committee Observation

32. The Committee observed from the explanation of the Accounting Officer at the time of examination that, the progress of the project was at a 95% completion rate, and this was confirmed by the OAG.

Committee Recommendation

33. The Committee recommends that, within three (3) months upon adoption of this report, the Accounting Officer should ensure that the project is completed in time and submit a progress report to the OAG.

1.2. Nairobi – Outering Road Improvement Project.

contracting for maintenance and were liaising with Nairobi County to manage waste collection and repairs.

41. The Committee observed that, since the erection of pillars and the construction of the foot bridges are complete, the matter is resolved.

1.3. Mother Kevin – Nakuru Town Road Project

42. The construction contract for improvement to the Bitumen Standard contract of Mother Kevin – Nakuru Town Road was awarded on 20th July, 2020, at a contract sum of Kshs. 49,526,695, and the order to commence work was dated 27th August 2020. The contract period was twelve (12) months and the expected completion date was 25th September, 2021. The works included a 0.5 km length of single carriageway with walkways situated in Kaptembwa in Nakuru town and upgrading to bitumen standards of the Posta link road. Review of the Project Implementation file revealed that the contractor was issued with notice for liquidated damages due to slow progress in September 2021, when the time elapsed was 92% against the physical progress of 60%. At the time of audit inspection on 28th February 2022, the surface preparation of the road was complete, awaiting bituminous works and drain lining. However, there was minimal activity going on at the site and the contractor was behind schedule by 5 months. The progress report provided for February 2022 indicated that the value works certified was Kshs. 22,239,443 or 45% while the percentage of the time elapsed was 141%.

Management Response

43. The management stated that the slow progress in the implementation of the project was due to delayed payments compounded by the COVID-19 pandemic. However, the Contractor was granted additional time for project completion. The road has since been completed and opened to traffic.

Current Physical Progress: 100%

Committee Observation

44. The Committee observed from the explanation of the Accounting Officer at the time of examination that, the project was complete, and the taking over certificate was availed to the OAG for verification; hence the matter is resolved.

Committee Observations

48. The Committee observed from the explanation of the Accounting Officer at the time of examination that the contract was terminated and the Agency had not re-advertised the project.

Committee Recommendations

49. The Committee directs the accounting officer to fast-track the process of re-advertising the project.

50. Further, the Committee recommends that within three (3) months of adoption of this report, the Accounting Officer should submit a status report on the progress of this project to the OAG for verification.

Kipangawau – Kibowen Primary Access/ Mwariki Secondary School – Pembe Mbili Eldoret Road Project.

51. The contract of the improvement to the Bitumen standard of Kipangawau – Kibowen Primary Access /Mwariki Secondary School – Pembe Mbili Eldoret Road Project was awarded to a local contractor at a contract sum of Kshs. 481,072,074 on 4th May 2021 for a Contract period of eighteen (18) months. The order to commence was issued on 14th June 2021, with the expected completion date of 14th January 2023. Review of the Project's monthly Report for November 2021 revealed that the estimated physical was 14% while the time elapsed was 26%. The contractor was behind the Schedule. It was noted that a total of Kshs. 26,726,226 had been paid as part of the payment of the advance payment requested by the contractor as per the contract agreement. During Physical verification exercised carried out on 28th February 2022 the contractor was not on site and there were sections with cut out top soil and dug out drainage leaving galleys on the surface.

Management Response

The Accounting officer submitted as follows—

52. The Contractor commenced works well in June 2021. However, there was need for relocation of services i.e. power lines, sewer and water from the corridor which took time and hence the observed delays. Further, the project experienced funding challenges due to inadequate budget allocations and delays in the exchequer releases. This led to stoppage of Works. However, the contractor has since resumed site made good progress despite continuing delay in exchequer

57. As at the time of the Audit, the outstanding works were as noted during the audit. The works were not fully completed because of a delay in payments. The Contractor subsequently completed the Works. However, the Contractor is yet to be paid Ksh. 70,152,391.65, which continues to attract interest. Management is pursuing this to get it addressed at both the Ministry and The National Treasury level to facilitate a conclusion of this Contract.

Current Physical Progress: Completed

Current Pending Bill: Ksh. 70,152,391.65

Committee Observation

58. The Committee observed during the examination that the project was complete, and a handover certificate had been provided; hence, the matter stands resolved.

1.6. Garissa Township Roads Contract

59. The contract of Upgrading to bitumen standards and performance based routine maintenance of Garissa Township Roads was awarded to a local contractor at a contract sum of Kshs. 483,366,251. The commencement date was 11th November 2016 and the expected completion date was 11th November 2018. The performance based routine maintenance cost was agreed at Kshs. 36,581,760 which was included in the contract sum. The project works included six (6) access roads within Garissa Township of approximately 7.3 km in length. The overall physical progress as at the end of February 2022 was 42% while the time elapsed for initial completion date stood at more than 39 months. The physical verification exercise carried out in March 2022 revealed slow progress in project implementation

Management Response

The Accounting Officer submitted that—

60. The works were procured through KeRRA and vested to KURA. It was then appraised to reflect requirements for urban roads as opposed to rural roads design. There was delay in the process of vesting and actual commencement of the works. The project was completed and taken over in December 2023 on end of defects liability period. However, there is still pending bills of Kshs. 316,947,212.52.

Committee Observations

67. The Committee observed from the explanation of the Accounting Officer at the time of examination that the works were partially complete and a balance of 3.7km had not been done.
68. Further, the Committee observed that there were no works going on, and the contract with the third assignee was terminated.

Committee Recommendations

69. The Committee recommends that the Accounting Officer fast-track the process of re-advertising the remaining works.
70. Further, the Committee recommends that within three (3) months of adoption of this report, the Accounting Officer submit a status report on the progress of this project to the OAG.

1.8. Jomvu Kuu – Jitoni – Rabai Road.

71. The contract for construction to Bitumen standards of Jomvu Kuu – Jitoni- Rabai Road Project was awarded on 10th July 2017 at a contract sum of Kshs. 1,023,765,470 with original contract completion date being 13th September 2019 which was later revised to 25th April 2021. The roads work was to cover approximately 11.7 km in length. During physical verification exercise in March 2022 it was observed that the project was behind the schedule and works were still in progress. It was also noted that seven (7) out of nine (9) programmed milestones had been completed. Approximately 11 months had elapsed from the revised project completion date of 25th April 2021.
72. In the circumstances, the value for money and service delivery to the public could not be confirmed.

Management Response

The management submitted that:

73. It is true that the works were behind schedule at the time of audit mainly because of delayed payment of certified works. However, the contractor managed to complete 80% of the project length which have since been taken over and the road is open to traffic.
74. The Contractor stopped working and has not been able to resume and complete the remaining works due to financial constraints caused by delay in payment. The Contractor is yet to be paid KShs 86,244,111.27. The Authority is awaiting the

with authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide basis for my conclusion.

Management Response

82. The management stated that interest on delayed payments accrues as a result of late payments to the contractor and is governed by the contract provisions. This is necessitated by the late disbursement of funds by the National Treasury. All claims relating to interest on delayed payments go through the approved procedures before they are paid. To this extent, the management can confirm that there were no irregular accruals of costs relating to interest.
83. Engagement with the Ministry of Roads and Transport and the National Treasury are ongoing to secure additional Budget to clear pending bills.

Committee Observation

84. The Committee observed from the explanation of the Accounting Officer at the time of examination that, the Agency had accrued a total of Kshs. 375 Million on interest on late payments. The Agency was liaising with the National Treasury to disburse the funds and provide for additional funding.

Committee Recommendation

85. The Committee directs the Accounting Officer of KURA to ensure that all future financial commitments strictly align with approved budgets and procurement plans. Further, within three (3) months of adoption of this report, the Accounting Officer to submit a status report on the pending bills, detailing the efforts being undertaken by management to settle them, to the Office of the Auditor-General for verification.
86. The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer of KURA to submit a comprehensive report to the National Assembly on the securitization of the Road maintenance Levy Fund (RMLF) and the progress it has made in tackling stalled road projects and the pending bills.

FINANCIAL YEAR 2021/2022

The Auditor General gave a qualified audit opinion, raising the following concerns

Committee Observation

92. The Committee observed that at the time of examination, the management submitted a revised ledger that contained all the payee details amounting to Kshs.44, 641,737, therefore, the matter stands resolved.

4.0. Unreconciled Road Maintenance Levy Fund (RMLF)

93. The statement of financial position and as disclosed in Note 17(b) to the financial statements reflects receivables from non-exchange transactions balance of Kshs. 5,533,727,695. Included in the balance is RMLF grants receivable balance of Kshs. 5,077,624,094 from Kenya Roads Board. However, the audited financial statements of Kenya Roads Board Fund reflect RMLF disbursement payable to Kenya Urban Roads Authority balance of Kshs. 2,322,321,695 resulting to a variance of Kshs. 2,755,302,399 which was not explained or reconciled. In the circumstances, the completeness and accuracy of grants receivable amounting to Kshs. 5,077,624,094 could not be confirmed.

Management Response

94. The Management stated that it was true that the financial statements reflected a balance receivable from non-exchange transactions of Kshs.5,533,727,695. This related to RMLF grant receivable from Kenya Roads Board for FY 2021/2022. Grant receivable is accrued based on the records available to the Authority and is accounted for in line with IPSAS 8 on Revenue Recognition.

95. According to the records, grant receivable from Kenya Roads Board amounted to Kshs.5,077,624,094 as reported in the financial statements for the year ended 30th June 2022.

96. The above amounts were subsequently received at the beginning of the F/Y 2022-2023 and were correctly recorded as per the above accounting standard on the dates indicated below. Attached please find the bank statements indicating the dates when the funds were received.

<i>Date</i>	<i>Amount</i>
<i>5th July 2022</i>	<i>1,025,834,012.00</i>
<i>8th July 2022</i>	<i>1,133,678,923.00</i>
<i>15th July 2022</i>	<i>2,918,111,159.00</i>
<i>Total</i>	<i>5,077,624,094.00</i>

Contract advances are secured by bank guarantees from approved commercial banks in Kenya.

102. In FY 2021/ 2022, the Authority had a contract advance opening balance of Kshs. 1,620,828,564 and paid contract advances amounting to Kshs. 3,023,950,043 during the financial year. Further, there was a recovery of the contract advances during the year amounted to 491,177,810, therefore leaving an outstanding balance of Kshs. 4,153,600,797 as reported in the financial statement for the year ended 30 June 2022.
103. In the subsequent financial year 2022/2023, there was a reduction in the contract advances balance to Kshs. 2,406,005,457 as reported in the financial statements. This was made up of the opening balance of Kshs. 4,153,600,797, additional payment of advances amounting to Kshs. 1,081,840,178 and recovery of Kshs. 2,829,435,518.
104. Most of the contract advances are already recovered as they are part of the pending bills for projects under implementation and whose settlement will enable recovery of the contract advances in the ERP.

Committee Observation

105. The Committee observed from the submission by the Accounting Officer at the time of examination that the recoveries were ongoing. The receivables from exchange transactions were related to the advances granted to the contractors and were secured by bank guarantees.

Committee Recommendation

106. The Committee recommends that within three (3) months upon the adoption of this report, the Accounting Officer should expedite the pending recoveries of Kshs. 2,406,005,457 and submit a status report.

6.0. Failure To Recognize Road Assets

107. The statement of financial position and as disclosed in Note 20 to the financial statements, reflects the Infrastructure Work-in Progress balance of Kshs. 133,072,963,945. The Infrastructure Work-in Progress balance has accumulated over the years and no capitalization has been made to roads assets. In the absence of justification for continued accumulation of Infrastructural Work-in Progress, the accuracy and presentation of the financial statements could not be confirmed.

amounting to Kshs. 14,180,564,783 and non-current payables amounting to Kshs. 1,176,007,856. The balance includes an amount of Kshs. 14,146,847,283 dues to suppliers and contractors. The total balance as at 30 June, 2022 when compared to the amount of Kshs. 12,278,076,796 reflected in the financial statement for the year ended 30 June, 2021, results to an increase of Kshs. 3,078,495,843 or 25% and exposed the Authority to unnecessary and avoidable costs of claims of interest and penalties on late payments to contractors on various projects. In the circumstances, the increase in pending bills may affect the cash flow of the Authority and adversely affect its operations.

Management Response

The Accounting Officer submitted the following—

117. Payables arise from the normal business of the Authority. As normal accounting practice, the balance at the end of the year is a result of the movement comprising of opening balance, expenditure and payments during the year. The Authority has engaged the National Treasury for Budget enhancement to settle pending bills.

Committee Observations

118. The Committee observed from the explanation of the Accounting Officer at the time of examination that, the Agency had accrued huge amounts in pending bills. Further, the Agency was liaising with the National Treasury to disburse the funds and provide for additional funding to settle the pending bills.

Committee Recommendations

119. The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer of KURA to submit a comprehensive report to the National Assembly on the intended securitization of the Road Maintenance Levy Fund (RMLF) and the progress it has made in tackling the pending bills.
120. Further, the Accounting Officer to review its budget and prioritize settling the pending bills on the ongoing projects in future budget cycles.

Access to Kigumo CDF hall road/offkigumu/Kanyari Road	20,469,785.00
Access to Kigumo MTC/Hospital	46,225,669.00
Access to DCC's office	28,361,746.00
Total	95,057,200.00

123. The APRP for 2020/2021 was already under implementation and could not be revised. However, the roads not implemented in the APRP for 2020/2021 were subsequently planned and implemented in the subsequent financial years as tabulated below.

S/No.	Road Name	FY IMPLEMENTED
1	Rurigi Estate – Tigoni Rd_1 –Bibironi – Ngarariga- Kamirithu	2022 – 2023
2	Law courts - Vidhu pry - Mortuary, Access To Murang'a University Road	2022-2023
3	Kamakwa-Nyeri-Slaughter House Roads Nyeri Municipality Nyeri County	2022-2023
4	Beevers Hotel - Meetingpoint Loop Roads	2022 – 2023
5	Lacquinta –Bus Stage CBD Roads	2022 – 2023
6	Mugereti - Kinyogori-Limuru Town	2023 – 2024
7	Muranga - Bus Stage/Muranga - Kigoro	2023 – 2024
8	Broadways -CBD (General Kago) Kiganjo	2023 – 2024

Committee Observation

124. The Committee observed from the submission of the Accounting Officer that, the revision of works was due to change of work plan midyear and the budgeted Kshs. 91 Million was reallocated to other road projects. However, the initial planned road works were done in the subsequent financial year.

of further extension of the contract. The outstanding payment on certified works was Kshs.333,629,164. The report also noted slow progress by the contractor, unpaid pending bills and encroachment by informal operators as the main challenges to completion of the project.

130. Audit inspection exercise carried out on 15 February, 2023 revealed that the contractor was not on site. The pedestrian walkways on the opposite side of Ngong Racecourse entrance (Ngando area) were not constructed as per design and the section has been encroached by small scale traders with their wares and thereby disrupting free flow of pedestrians. In addition, the works on the carriageway were not complete and the surface was uneven. Further, drainage works were not completed and this poses danger to road users especially during the rainy season.
131. The contract provides for five (5) footbridges but this had not been done thus exposing pedestrians to risk of accidents given that Ngong road is a heavy traffic road. In the circumstances, delay in the completion of the road works has adversely impacted service delivery to the public and full value for money on road project could not be confirmed.

Management Response

The management submitted as follows;

132. It is true that the project implementation has been slow mainly due to delayed payment to the contractor for certified Works.
133. Major road works and drainage works including road marking and road signs have since been completed. However, the construction of three (3) foot bridges commenced and are currently in progress. For the remaining two (2) foot bridges and walkways, the contractor is still on site and plans are underway to commence works once payment for certified Works is made.
134. The Authority has and continues to engage the City County of Nairobi on the relocation of the informal traders along the proposed location of the walkways to pave way for the expected Works.
135. Further, walkway construction was prioritized on sections with high pedestrian flow with the remaining sections planned to be completed as soon as the pending bill is settled. The project has an outstanding pending bill of Kshs. 272,125,309.80. For the contract period, the Contractor was granted an Extension of Time for completion of the remaining Works.

requested for extension of time and completion date, which was revised to May 2023.

140. The Nairobi Hospital management had raised concern that the designated location of the footbridge at Gate B of KNH did not have the approved consent from the Hospital through an Environmental Impact Assessment (EIA) involvement as required. The matter had also been referred to the National Environment Complain Committee. In the circumstances, it is unlikely that the project will be delivered within the expected timeline thus adversely impacting on realization of value for money by the public.

Management Response

141. The management stated that the National Environmental Complain Committee (NECC) said they had no objections to the construction of the footbridges since they were convinced that adequate public participation was undertaken. It was only that Nairobi Hospital did not attend the public participation meetings despite having been invited. Having resolved the Nairobi Hospital matter, the contractor was granted an extension of time to complete the remaining works. Despite the funding challenges, the contractor continued with the works and the current physical progress is 67%.

Committee Observation

142. The Committee observed from the submission of the Accounting Officer that there was progress on the project and with a projected completion date of November 2025.

Committee Recommendation

143. The Committee recommends that within three (3) months of the adoption of this report, the Accounting Officer should expedite the completion of the project and submit a report to the OAG on the status of the project for verification.

9.3 Nairobi Outering Road Improvement Project

144. The contract for Nairobi Outering Road Improvement project was awarded at a contract price of Kshs.8,263,399,494 and the contract ended in April 2020 with a two years defects liability period.
145. As previously reported, the project was on a maintenance contract but had challenges of open drainages that were used as receptacles of garbage/dumpsites. It was also noted that there were mounds of garbage by the

contracting for maintenance and were liaising with Nairobi County to manage waste collection and repairs, hence the matter stands resolved.

9.4 Eastern By-Pass Road-Footbridge near Cabanas Area

152. The construction of the footbridge was carried out by the Authority through funding from the African Development Bank and completed for use to motorists several years back. The Authority had erected metal barriers along the road and in between the bars were light metal sheets to ensure that the pedestrians do not cross the road at un-designated areas but instead use the footbridge for their own safety.
153. Audit inspection carried out on 15 February, 2023, revealed that the barriers were either crashed by speeding vehicles or had been vandalized thus resulting to risk of loss of lives. This issue had been noted and reported in the previous year's audit with no intervention from the Management of the Authority. In the circumstances, there is a risk of loss of pedestrians' lives as there are no barriers to ensure safe usage of the footbridge.

Management Response

154. The management stated that vandalism of steel materials has been a challenge across the Country whose solution/intervention call for concerted efforts through multi sectoral approach.
155. The Authority has been repairing damaged road furniture and incorporated repair works in planned maintenance projects, however, the rate and frequency of vandalism of the infrastructure is not sustainable and calls for intervention at policy level and enforcement.
156. The Authority in collaboration with industry players and institutions of higher learning, is in process of researching for alternative road furniture materials to deter the practice.

Committee Observations

157. The Committee noted from the submission of the Accounting Officer that destruction of the barriers was caused by vandalism by illegal scrap metal dealers. The management are collaborating with Kenyatta University to develop alternative materials that do not attract vandals.

However, upon assigning, the Assignee ran into financial challenges due to delayed payments for the other project (Mother Kelvin Road) for more than a year mainly because of delay in exchequer releases. In October, 2023, the Assignee requested for termination citing delay in payments for works executed on Mother Kevin Road and changes in prices of construction materials. Following the request, the Authority initiated and completed the termination process. The remaining Works will be procured afresh.

Committee Observation

165. The Committee observed from the explanation of the Accounting Officer at the time of examination that the contract was terminated and the Agency had not re-advertised the project.

Committee Recommendations

166. The Committee recommends that the Accounting Officer to fast-track the process of re-advertising the project.
167. Further, within three (3) months of the adoption of this Report, the Accounting Officer should submit a status report on the progress of this project to the OAG for verification.

9.6 Construction of Narok Town Roads - Narok

168. The contract was awarded to a construction company at a contract sum of Kshs. 680,415,106 on 29 April 2020 for a contract period of eighteen (18) months. The works commenced on 25 August 2020 with expected completion date of 25 February 2022. The project duration was later extended by 13 months to 20 March 2023. The project works comprised of improvement to the bitumen standards of junctions B3 Kims Breeze – PolOnga road, B3-Olmarei Lang' Road, ENSDA Africa Hope Centre Road, Maasai Mara University-GK Prisons Bridge and County Commissioner's Loop Road in Narok County. The roads covered a total of 7.7 km in length. The main works were the construction of a 7-meter single carriageway, 2m wide footpath on either side of the road, drainage structures including a twin box culvert and a river crossing reinforced concrete 40-meter, 2-span bridge, road furniture, safety provisions and street lighting.
169. As at the time of audit inspection on 5 March, 2023, the contractor had total works certified of Kshs. 338,191,933 or 50% of the contract value and the total pending bills/unpaid certified work was Kshs.92,982,638.

- (i) The following were noted during audit inspection of the project;

9.7 Construction of Homabay Town Roads Phase 1

175. The contract for the works was awarded to a local company at a contract sum of Kshs.630,973,302 on 4 May, 2021 for a contract period of thirty (30) months. The order to commence works was given on 14 June, 2021 with the expected completion date of 14 December, 2023. The main project works covered 7.11km long single carriageway, walkways and drainage works within Homabay town. The works comprised of upgrading to bitumen standards of Ruma – Stadium road, Ruma – Homabay High school, Ruma – Site, SDA – Waterworks road, KeRRA offices – Arunda School – Sophia road and Sophia – Nyagedha road.
176. A review of progress report for the month of January, 2023 revealed that assessed completed works was estimated at 8.6% against an elapsed time of 65.3%. The report also indicated that the amount of certified and paid works was Kshs.145,398,402 representing 23% of financial progress. The progress report also indicated that the project was likely to be extended by 203 days. The main challenges highlighted were presence of utility services on road corridor and inadequate mobilization by the contractor. At the time of audit inspection on 2 March, 2023, the contractor was doing earthworks, culvert installation and drainage works on some road sections.
177. In the circumstances, there is a likelihood that the project delivery will be delayed due to the slow progress of works by the contractor.

Management Response

178. The management stated that delayed payment to the contractor and relocation of services affected works progress. The contract mobilized all the require equipment and currently, the physical project stands at 41 %. Further, the Authority is working in close liaison with the County Government of Homabay and the service providers to overcome the challenges of relocation of services. In the meantime, the time for completion of the remaining Works has been revised to June, 2025.

Committee Observation

179. The Committee observed from the submission of the Accounting Officer at the time of examination that the Accounting Officer did not refute the fact that the project was lagging behind schedule and that it was unlikely that the project would be completed within the timelines stipulated in the contract.
180. Further, the Committee observed that there were obstacles on the road and other barriers hindering the construction.

Committee Observation

186. The Committee observed during the examination that the project was complete, and a handover certificate had been provided, therefore, the matter stands resolved.

9.9 Construction of Kisii Bypass Phase 2 - Kisii County

187. The contract for the road works was awarded to a local contractor at a contract sum of Kshs.846,921,029 and works commenced on 30 July, 2021, with a contract duration of 30 months and expected completion date of 14 December, 2023. The main project works comprised of construction of 15.58 km long single carriageway in Kisii town. The works included upgrading to bitumen standards of Itibo Market – Nyagesa junction road, Omogonchoro market – Riverbank junction, Botorio – Lesos – Kona Mbaya – La Premier and Access to Kisii University. Other works involved installation of road furniture, drainage and construction of two box culverts.

188. Review of the monthly progress report dated 17 January, 2023, revealed that the value of works certified by December, 2022 was Kshs.81,126,253 and that the assessed completed works were estimated at 9.24% against an elapsed time of 60%. During the audit inspection carried out on 2 March, 2023, the contractor was not on site and the works had been suspended.

189. In the circumstances, the project delivery may be delayed due to the slow progress of works and the citizens of Kisii County may not get value for money on this project.

Management Response

190. The management stated that the main contractor commenced the works and implemented approximately 9% of the works. The Contractor encountered financial challenges and nominated an assignee (Hudgens Construction Company Limited) to continue executing the works. The assignee has implemented 19% of the works. The total progress of works to date is 28%.The amount of money paid to the main contractor to date is kshs. 81, 095,008.95 while the assignee has been paid kshs. 58,464,995.19.

9.10 Delayed Completion of Nyeri Town Roads

202. The contract for the road works was awarded to a local company in respect of upgrading to bitumen standards of Nyeri roads at a contract sum of Kshs.396,797,262 and the commencement date of 28 October, 2020 with expected completion date of 28 April, 2023. The road network under construction is a system of inter-linked roads, divided into three sections with total length of 5.4km. Audit inspection exercise carried out in February, 2023, revealed that the contractor was on site and works were going on. However, the project progress report as at January 2023 indicated that the project time elapsed was 90% against assessed work done of 40.9%. In the circumstances, it is unlikely that the project will be delivered within the expected completion date of 28 April, 2023 and the public may not get value for money on the project.

Management Response

203. The management stated that the progress has been hampered by the delay in settling of pending bills and exchequer release. The project completion date has been extended to April 2025.

Committee Observation

204. The Committee observed at the time of examination that the project was behind schedule due to the delay in settling of pending bills and exchequer release and that it was unlikely the project would be completed within the timelines stipulated in the contract.

Committee Recommendation

205. The Committee recommends that the Accounting Officer should prioritize completing the ongoing project before embarking on a new project.

206. The Committee recommends that, within three (3) months of the adoption of this report, the Accounting Officer should submit a status report on the progress of this project to the OAG.

9.11 Upgrading of Roads in Meru County Headquarters

207. The contract for the road works was awarded to a construction company at a contract sum of Kshs.1,043,328,635 and the commencement date was 27 July, 2020 with expected completion date of 27 July, 2022. Audit verification exercise

was unable to complete the work, which resulted to the work being assigned to three (3) assignees.

215. As previously reported and also observed during the audit inspection exercise carried out on 28 February, 2023, one assigned contractor had completed their part of contract of upgrading 1.5 km road and vacated the site. The second assigned contractor was on site. A section of 1.5 km was substantially done with outstanding works being road marking and drainage works. However, a section of 0.75 km had not been done with material for sub base on site but not spread. The third assigned contractor was not on site and therefore no work was going on for the 0.7 km section of police station road and 0.8 km water intake roads as per the contract. Overall, the percentage of time elapsed was 100% against work done of 80% and therefore the two assignees may not meet their contractual obligation.

216. In the circumstances, the project is behind schedule and the public may not get value for money on the project.

Management Response

217. The management stated that the first assignee completed the assigned 1.5Km within the allocated time and the section was taken over. The second assignee completed the assigned 6.75Km within the allocated time.

218. However, the third assignee for 6.75Km completed 3Km and was unable to proceed due to delayed payment and changes in prices of construction materials. The contractor notified the Authority that due to upwards movement of prices, he could not continue with the Works and requested for termination of the contract which was completed. The remaining Works will be packaged and procured afresh.

Committee Observation

219. The Committee observed that the road was partially completed, with handover certificates in place. However, a 3km section remained abandoned after the contractor was unable to proceed with the works, leading to the termination of the contract.

Committee Recommendation

220. The Committee recommends that within six (6) months upon adoption of this report, the accounting officer should fast-track the re-advertisement of the

226. The Authority engaged with KPC and KP and the corridor was cleared paving way for the road construction. On loose volcanic soil, we ensured that extensive rockfill was used to arrest any situation on the loose volcanic soils.

227. The Works have since been fast-tracked and currently at 82% complete as at 31st March 2025. The Contract was extended to 26th May, 2025.

Committee Observation

Maai Mahiu

228. The Committee observed that the works had progressed and the access road was 82% complete. During the time of examination, the bitumen layer for the main road was nearly complete and awaiting the final layer. However, the walk pathways, the cycling track and drainage construction works were ongoing with an estimated completion date of 26/05/2025.

229. The Committee noted that the project was at 82% completion, with the contractor having been paid approximately Kshs 800 million. Works on the access roads were progressing well. This represented a significant improvement, considering that at the time of the audit by the Office of the Auditor-General (OAG), the project was only at 10% completion.

230. The Committee observed that the neighboring residents in Maai Mahiu SGR station had been cut off from accessing the main road by a river. The Committee underscored the importance of constructing a bridge to facilitate accessibility of the main road by the local residents.

Suswa

231. The Committee noted that the construction of the access road to Suswa SGR was complete and open to the public for use. However, on the main road, the surface layer of bitumen had not been applied.

Committee Recommendations

232. The Committee recommends that within three (3) months of the adoption of this report, the Accounting Officer to submit a status report to the Office of the Auditor-General (OAG) on the progress of the projects, including the construction of the bridge intended to assist residents at the Maai Mahiu SGR station.

239. **Shreeji Road:** Assignee to undertake completion of the pending 460metres once done with Enterprise Road.
240. The Assignee commenced works and the overall progress is at 84.64%.

Committee Observations

241. **Enterprise Road Bridge:** The Committee observed that the bridge over Ngong River is complete but road works for dualling the pending section was ongoing.
242. **Shreeji Road:** - The Committee observed that the road earth works were ongoing and the project was scheduled to be completed in June 2025. However, concerns were raised on the slow progress of works of the project.
243. **Likoni Road Bridge:**
- (i) The Committee noted that the bridge expansion had not commenced and given the contestation between KURA and KRC on the height of the bridge, there was no likelihood of completion of the bridge expansion and this was inconveniencing the public.
 - (ii) The Committee observed there was need for KURA to complete the road approaches on both sides of the bridge and narrow the road towards the bridge as they continue sourcing for funding in liason with Kenya Railways Corporation.

Committee Recommendations

244. The Committee directs the Accounting Officer of KURA to complete the dualled road approaches on both sides of the Likoni bridge and narrow the road towards the bridge, as they liaise with the KRC on budget sharing mechanism to construct a new 7.01m bridge.
245. The Committee directs the Accounting Officers of the two agencies to liaise with the Parent Ministry with a view to securing a way forward on funding for the new bridge. The two agencies should develop a budget-sharing formula to facilitate the implementation and the management and the Kenya Railway Corporation to take lead in sourcing for the funds to construct the new bridge to 7.01 metres height.
246. The Committee recommends that within six (6) months of the adoption of this Report, the Accounting Officer should submit a status report to the Office of the Auditor-General (OAG) on the progress of the three projects for verification.

(iii). Works in the other two counties of Busia and Bungoma were still at initial/mobilization stage.

251. In the circumstances, the project is not likely to be completed within the contract period which will adversely impact realization of value for money.

Management Response

252. The works were completed and currently under operations and maintenance. The Project had faced challenges of encroachments on the Project Roads and KURA has worked efficiently in conjunction with other stakeholders to overcome the challenges. The works were completed and are currently under operations and maintenance.

Committee Observation

253. The Committee observed that the project had faced challenges of encroachment on the Project Roads and KURA had worked efficiently in conjunction with other stakeholders to overcome the challenges. The works were completed and are currently under operations and maintenance. The Committee observed that since the roads works had been completed and handover certificates availed, the matter stands resolved.

9.16 Dualling of the Nairobi Eastern Bypass Road (From Baraka Roundabout to Ruiru Kiambu Junction (63)

254. The contract for the road works was awarded to a Contractor at a contract sum Kshs.12,494,837,029. The works commenced on 14 January, 2022 for a contract period of 12 months, and was expected to be completed on 14 January, 2023. The defects liability period (DLP) was agreed at 12 months after the completion date. The scope of works involved upgrading of the existing 26.98 km Nairobi Eastern bypass road from a single 2-lane carriageway to a dual 4-lane carriageway (6-lane carriageway from Km 10+045 to Km11+688) complete with structures, drainage, lighting, and road furniture and ancillary works.

255. Review of records and audit inspection carried out in February, 2023, revealed the following;

i. Overall Project Progress

Overall, 93.7% of the work was complete while 100% contract period had elapsed. Site clearance, earthworks and road structures along the 26.98 Km road was

- i. Installation of bumps and rubble strips
- ii. Installation of road signs
- iii. Road marking

260. As such, the safety around the roundabout has been enhanced. We have been monitoring the performance of the roundabout and we confirm that there has been no noticeable safety incidences.

261. Currently, the Contractor is yet to be paid for certified works amounting to Kshs. 1,782,676,660.

Committee Observation

262. The Committee noted from the explanation of the Accounting Officer at the time of examination that the project was complete, hand over certificate issued and the measures to enhance safety were in place. However, the Contractor was still owed Kshs. 1,782,676,660.00. The matter stands resolved.

9.17 Construction of Valley Road-Kenyatta Avenue/Ngong/Nyerere Road Interchange and Upper Hill-Haile Selassie Overpass and Associated Road Networks in Nairobi County

263. The contract for the road works was awarded to a Contractor at a contract sum Kshs.2,987,506,754. The tender notice was issued on 31 March, 2020 while the contractor was notified of award on 9 July, 2020. The contract agreement was signed on 17 September, 2020 and commenced the same day. The contract period was thirty-six (36) months with expected completion date of 17 September, 2023 and with a defects liability period (DLP) of twenty-four (24) months. The main project works covered approximately 7 Km long dual carriageway with intermittent service roads/slip roads and construction of 2 No. overpasses in Nairobi City County. The project comprises of construction of 2-lane 2-way 7.0 m wide carriageway up-grade road with raised central median, 2.0 m wide footpaths on each side of the road, 1.5m wide open drain with invert block drain and side slabs, 2 no. overpasses, road furniture and marking, bus bays, utility relocation, safety provisions and protection works, street lighting and landscaping.

264. As at 30 June, 2022, payments totaling to Kshs.219,800,000 had been made to the contractor. Further, as at the time of audit inspection carried in February, 2023, twenty-nine (29) months or 81% of the contract period had elapsed, with work

2022. The main project works comprised of construction to bitumen standards of Jomvu-Kuu Jitoni Rabai road with 7.0m wide carriageway, lined drains on both sides and 2.0m wide walkways on both sides. The total length of the project is approximately 11.7km. The works are situated in Mombasa and Kilifi Counties. The project was conceived under the Low Volume Sealed Urban Roads (LVSUR). Review of records revealed that Kshs.769,948,223 had been certified as at 31 May, 2022 out of which an amount of Kshs.579,171,604 had been paid leaving an unpaid balance of Kshs.190,776,619.

272. Audit inspection exercise carried out in February, 2023 revealed that the project implementation was behind schedule going by the project extended completion date of 21 March, 2022. It was noted that seven (7) milestones had been completed out of the nine (9) programmed milestones. The works had stalled and the contractor was not on site. Further, some completed sections of the road had been worn out and required to be redone. In the circumstances, the project completion is behind schedule as approximately 11 months had elapsed from the revised project completion date of 21 March, 2022. This will adversely impact on realization of value for money by the citizens.

Management Response

273. The works were behind schedule at the time of audit mainly because of delayed payment of certified works. However, the contractor managed to complete 80% of the project length which have since been taken over and the road is open to traffic.

274. Currently the outstanding pending bill is Kshs 8,270,528.58. The contractor is to resume to complete his contractual obligations.

Committee Observation

275. The Committee observed at the time of examination that the project was at 80% completion. However, the contractor had abandoned the site and was set to resume in May, 2025.

276. The Committee noted that the completed section of the road, which had been opened for use, had deteriorated—primarily due to heavy lorry traffic.

Committee Recommendation

277. The Committee directs the Accounting Officer to dispatch a technical team to assess the quality of the road works, with a view to recommending possible solutions to address the rapid deterioration of the road.

Committee Observations

284. The Committee observed at the time of examination that the road works were ongoing, and a completion date was set on 31st December 2025. However, the Committee notes that given the huge amount of the pending bill, it was unlikely that the road would be complete on the set completion date.
285. The Committee further noted that in regards to the additional works at Uhuru Gardens, Nairobi, the works had been completed and the road was opened to the public.

Committee Recommendation

286. The Committee recommends that within three (3) months of the adoption of this report, the Accounting Officer should submit to the Office of the Auditor-General (OAG) a report on the progress of the road's construction.

9.20 Upgrading to Bitumen Standards of Mombasa Road (Devki)-Kinanie Park/Kinanie Leather, Machakos County

287. The contract was awarded to a consortium at a contract sum of Kshs.1,785,779,142 on 15 July, 2021 with a contract period of 36 months and expected completion date of 14 July, 2024. The project is situated in Machakos County. The works comprise upgrading to bitumen standards of Mombasa Road (Devki)-Kinanie Park/Kinanie Leather Park to include 7.0m wide carriageway, lined drains on both sides and 2.0m wide walkways on both sides on a 25km distance.
288. As at the time of audit in February, 2023, progress was 41% while time elapsed was 18 months (50% of contract period). The amount paid on the contract was Kshs.238,434,076 out of total works certified of Kshs.476,005,001 resulting to unpaid certified amount of Kshs.237,570,925. In the circumstances, there is a risk of breach of contractual obligation by the Authority and the delayed payment may attract interest and penalties thus escalating the project cost.

Management Response

289. The management stated that the current physical progress is at 60%. The contractor is on site and the project completion time has been extended upto 14th January, 2026.

296. During the audit, the contractor had suspended works due to lack of payments.
297. The pending bill for the project currently is Ksh 193,264,170.08.

Committee Observation

298. The Committee observed at the time of examination that the project was progressing well, with 86% completion, and urged the management of KURA to ensure adherence to the project completion timeline.
299. Further, the Committee observed that there was need for the management to extend the road to connect with Namanga Road in order to enhance accessibility and open up the area.

Committee Recommendation

300. The Committee recommends that within three (3) months of the adoption of this report, the Accounting Officer should submit to the Office of the Auditor-General (OAG) a report on the progress of the road's construction.

9.22 Upgrading to Bitumen Standards of Kwale and Ukunda Township Roads

301. The contract was awarded to a Contractor at a contract sum of Kshs.529,440,462. The project is located within Kwale Town, Matuga Constituency and Ukunda Township in Msambweni Constituency all in Kwale County.
302. The main works comprise of construction of single carriageway gravel roads to bitumen standards, construction of walkways and related drainage facilities. The roads to be upgraded are 1.38 km Kwale Tsimba Clinic Road, 1.48 km Bongwe-lbiza-Ukunda Road and 3.83 km Diani Markaz Shamu Primary School. The works to be executed included site clearance, pavement construction, drainage and protection works, installation of road furniture, relocation of services and other ancillary works including guardrails where necessary.
303. Audit inspection carried out in February, 2023 revealed that while works on the Kwale Tsimba Clinic section was 97% complete with only road markings and road furniture installation remaining, the other two sections were below 30% completion and the contractor was not on site. The constructed drainage on the Kwale town section had overgrown bushes a sign of neglect or lack of site maintenance by the contractor. In the circumstances, there is a risk that citizens may not get full value for money on the project.

Committee Recommendation

309. The Committee directs the Accounting Officer of KURA to ensure that all future financial commitments strictly align with approved budgets and procurement plans. Further, within three (3) months of adoption of this report, the Accounting Officer to submit a status report on the pending bills, detailing the efforts being undertaken by management to settle them, to the Office of the Auditor-General for verification.
310. The Committee recommends that within six (6) months of adoption of this report, the Accounting Officer to submit a comprehensive report to the National Assembly on the intended securitization of the Road maintenance Levy Fund (RMLF) and the progress it has made in tackling stalled road projects and the pending bills.

11. Non-Preparation of Separate Financial Statements for Staff Mortgage Scheme

311. During the year under review, Management did not prepare separate financial statements for the Staff Mortgage Scheme. However, the Funds operations were reported together with the Authority's financial statements. This contravened Regulation 221(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the accounting officer for a national government entity listed in Schedule 2 and 3 shall prepare and submit annual financial and non-financial statements in the format gazetted by the Cabinet Secretary within three months to the Auditor General with copies to the responsible Cabinet Secretary and the National Treasury.
312. In the circumstances, Management was in breach of the law.

Management Response

313. The management stated that this practice is applicable to the mortgage schemes established under the State Officers House Scheme Fund regulations under Gazette notice No. 23 of 6th March 2015. The Authority's staff mortgage Scheme is guarantee-based and is administered externally. Therefore, not subject to separate financial statements. The bank shares periodic reports showing the movement in the fund balance and accounted for under statement of changes in net Assets in the financial statements.

Management Response

318. The management stated that there have been various circulars freezing recruitment which has impacted on the employment of new staff and this has been compounded by budgetary constraints and the Government Austerity measures. However, we have continued seeking approval for recruitment from the National Treasury and carried out recruitment where approval is granted. Further requests to recruit are subject to the approval of and availability of adequate resources.

Committee Observation

319. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had taken steps to fill critical staffing gaps at the project implementation level by recruiting nineteen engineers. The Committee observes that the matter is resolved.

Committee Recommendations

327. The Committee recommends that within three (3) months upon the adoption of this report, the Accounting Officer should expedite the recovery of the outstanding advances and submit a status report to the OAG.

2. Unresolved Prior Year Matters

328. In the audit report of the previous year, a number of issues were raised under the Report on the Financial Statements and Report on the Lawfulness and Effectiveness in Use of Public Resources. However, the issues remained outstanding as at 30 June 2021.

Management Response

329. The Accounting Officer noted the Auditors' observations and informed the Committee that all Prior Year matters were presented to the Public Investments Committee (PIC) and resolved in 2022.

Committee Observation

330. The Committee observed at the time of examination that prior year matters were resolved in 2022 hence the query is resolved.

3.0 Irregular Payment of Rent and Rates

331. The Statement of financial performance reflects other operating costs of Kshs 477,684,000 as disclosed in Note 16 to the financial statements. The amount includes rent and rates amount of kshs 18,0630,000, out of which Kshs 17,758,000 was incurred on rent charges for office space measuring 18,745 square feet at Blue Shield Towers for the period between 01 October 2019 to 1st April 2020. Review of records revealed that the Authority entered into a six-year lease agreement for office space on 1st April 2014. However, vide letter dated 3rd September 2019. Management gave notice of intention to vacate the building by 30th September 2019, but indicated that the lease period would end on 1st April 2020. The Authority, therefore, paid rent charges for office space that was not utilized.

332. In the circumstances, value for money may not have been obtained on the expenditure of kshs 17,758,000 incurred on rent charges.

Management Response

339. The Accounting Officer submitted that the interest on delayed payments had been occasioned by inadequate budgetary allocation for projects and delayed exchequer releases.
340. Additionally, the budgetary allocation to projects was often less than the contractor capacity to generate payment certificates, thus leading to an accumulation of pending bills and hence the interest charges.
341. The Authority continues to engage the National Treasury and Ministry of Roads and Transport for increased budgetary allocations and timely release of Exchequer.

Committee Observations

342. The Committee observed from the explanation of the Accounting Officer at the time of examination that the interests on delayed payments were accruing as a result of pending bills.
343. The Committee noted that KeRRA had accumulated a total sum of Kshs. 66,025,495,545.25 as pending bills.

Committee Recommendations

344. The Committee recommends that the management should prioritize completing the pending projects before embarking on any new projects in order to reduce the interests accruing on delayed payments.
345. Further, within three (3) months upon the adoption of this report, the Accounting Officer should expedite the engagements with the National Treasury in order to obtain a way forward on the pending bills and submit a status report on the pending bills and interests.

5. Acting Appointments

346. The statement of financial performance reflects directors' costs and employment costs of Kshs 13,394,000 and Kshs 2,586,488,000 respectively as disclosed in Note 13 and Note 14 to the financial statements. The amounts included acting allowance of Kshs 378,000 and Kshs 835,920 paid to two (2) members of staff. Review of personnel records revealed that the two (2) employees have been on acting capacity for a period of over six (6) months contrary to the requirements of Sec C.14 of the Public Services Commission

Committee Observation

353. The Committee observed from the explanation of the Accounting Officer at the time of examination that pending bills significantly impacted the ongoing and planned infrastructural projects in the road sector, thus an increase in stalled projects.

Committee Recommendation

354. The Committee recommends that the accounting officer should prioritize completing the pending projects before embarking on any new projects.

355. Further, within three (3) months upon adoption of this report, the Accounting Officer should expedite the engagements with the National Treasury in order to obtain a way forward on the pending projects and submit a status report on the utilization of the securitization of the fuel levy in paying pending bills and interests.

7. Lack of a Fixed Asset Register

356. Management did not maintain a fixed asset register as at 30th June 2021, as required by section 143 (1) of the Public Finance Management Act (National Government), which states that the Accounting Office shall be responsible for the maintaining a register of assets under his or her control or possession.

357. In the circumstances, Authority assets may not be fully accounted for and may be at risk of loss

Management Response

358. The Accounting Officer noted the observations of the Auditor and submitted that the Authority currently maintains a fixed asset register. The Management had however incorporated all the details in the fixed asset register as required by the policy guidelines issued by the National Treasury.

Committee observation

359. The Committee observed from the explanation of the Accounting Officer at the time of examination that the attached fixed asset register was updated and verified by the OAG, hence the matter is resolved.

of Kshs 440,108,000 and Kshs 665,521,000 was not explained or supported. In addition, the basis for the allocation among the specific funds was not provided.

366. In the circumstances, the accuracy of the RMLF 22% constituency Roads Fund amount of Kshs 7,950,824,000 and road maintenance levy fund expenditure of Kshs 870,813,000 could not be confirmed.

Management Response

367. The Accounting Officer submitted that—

- i) The Variance in expenditure under RMLF 22% roadworks is represented by Road Works Force Account GL 9000100 of Kshs 58,312,969.97. The Regional offices execute works under force account which is normally reported as part of 22% Roads Works because the funding source is the 22% RMLF allocations.
- ii) The Authority receives funds under constituency roads funds 22% and critical link roads 10%. The Over expenditure is as a result carry over funds from the previous financial periods. Therefore, the current periods expenditure may not match the levy received in the year under review.

Committee Observation

368. The Committee observed from the explanation of the Accounting Officer at the time of examination that the reconciliation had been done in the books of accounts of the entity, thus, the matter stands resolved.

9.2. Donor Funded Projects

369. The statement of financial performance and Note 12 to financial statement reflects road works expenditure totaling to ksh 40,197,725,000. Included in the road works expenditure totaling to Kshs 40,197,725,000 is an amount of Kshs 870,813,000 under Donor Funded Projects. However, review of financial records under the projects revealed that Kshs 414,210,670., Kshs 44,974,887 and Kshs 5,000,000 was disbursed to BADEA, EU and KFW projects respectively all totaling to Kshs 464,185,557 resulting to an explained and unsupported variance of Kshs 406,627,443. In addition, the corresponding revenue for German Development Bank (KFW) was not captured in the statement of financial performance.

370. In the Circumstances, the accuracy of Donor funded projects of Kshs 870,813,000 could not be confirmed.

Management Response

375. The Accounting Officer submitted that the Authority received kshs 17,799,054,000 for Gok Spot Improvement and spent Kshs18,072,580,000 under the same funding. The underfunding of Kshs. 273,526,000 was covered by carry over funds from previous financial year periods.

Committee Observation

376. The Committee observed from the explanation of the Accounting Officer at the time of examination that the underfunding of Kshs. 273,526,000 was covered by carry over funds from the previous financial year and a reconciliation was done hence the matter is resolved.

10. Expenditure Of Overheads from Bill One Deductions

377. Analysis of expenditure shows that a total of Kshs.4,197,279,000 was spent on overheads out of which Kshs.804,082,000 was financed by Kenya Roads Board Overheads allocation and Kshs.3,393,197,000 financed by bill one deductions from contracts. It was further noted that Kshs 2,953,523,000 from bill one was used to finance office operational cost which were non-roads related expenditure. It was also noted that the Authority reported a surplus of Kshs.2,706,634,000 which was financed from bill one expenditure of Kshs.2,953,523 000 as shown in the table below;

Total Expenditure	Amount Kshs.
Directors Costs	32,085,000
Employment Costs	2,821,451,000
Repairs and Maintenance	169,130,000
Other Operating Costs	1,174,613,000
Total Expenditure	4,197,279,000
Less: Utilization from KRB Funds (KRB Receipt Operations - Operating Surplus)	(804,082,000)
Expenditure from bill one	3,393,197,000
Less Expenditure related to Roads: CRC and Tender Evaluation	(216,437,000)
Less Expenditure related to Roads: Fuel and Other Vehicle Running Expenses	(173,468,000)

381. In addition, included in the security expenditure of Kshs.111,091,000 is a payment of Kshs.7,004,804 made to another security firm being claim as a result of reconciliation of previous payments. No analysis indicating previous payments was provided for audit verification as indicated in KeRRA Internal Memo Letter Ref. No: KeRRA/02/3/38/Vol.5(11) dated 16 November, 2021. The full contract agreement was also not provided for audit. Further, the security firm had no security pending bills as per the budget.

382. In the circumstances, the validity of security payments totaling Kshs. 52,462,764 could not be confirmed.

Management Response

383. The Accounting Officer submitted as follows—

- i) The expenditure was not a legal cost but a security cost for services rendered, referred to an arbitrator. The basis of payment of kshs45,457,960 was as a result of the arbitration award. Total Security requested for the Payment to be made directly to their Lawyer Nyaanga and Mughisa Advocates Copy Attached.
- ii) For the payment of kshs 7,004,804 Babs Security - analysis of the reconciliation, a copy of the contract document and an extract of the revised budget 2021-2022 was attached.

Committee observation

384. The Committee observed at the time of examination that the management did not avail the security contract agreement and other supporting documents with regards to the payment of Kshs 7,004,804 for scrutiny and verification hence the explanation by the Accounting Office was unsatisfactory.

Committee recommendation

385. The Committee directs that within three (3) months of adoption of this report, the Accounting Officer should recover the Kshs 7,004,804 and submit a status report to the OAG.

12. Unsupported Foreign Travel by Non -Executive Directors

386. The statement of financial performance and Note 13 reflects Directors' costs amount of Kshs. 32,085,000 This amount constitutes executive and non-executive

13. Unreconciled Employment Costs

390. The statement of financial performance reflects employment costs totaling to Kshs. 2,821,451,000 which includes salaries and wages totaling to Kshs. 1,881,261,000. Included in the amount is Kshs.6,617,168 paid to interns engaged during the year. Scrutiny of the approved interns' payroll for the month of April, 2022 revealed inconsistencies between the interns' payroll and the payroll reconciliation summary as analyzed below: -

	Interns payroll Kshs	Payroll reconciliation summary Kshs	Variance Kshs
NHIF Relief	7,290	7,928	(638)
Personal Relief	136,800	144,000	(7,200)
Salary	1,355,000	1,430,000	(75,000)
Basic Pay Arrears	149,515	344,675	(195,160)
Total Earnings	1,504,515	1,926,602	(422,087)
NHIF	48,600	52,850	(4,250)
NSSF	11,400	12,000	(600)
PAYE	42,941	100,698	(57,757)
Total	3,256,061	4,018,753	(762,692)

391. In the circumstances, the accuracy and completeness of the salaries and wages of Kshs.1,881,261,000 could not be confirmed.

Management Response

392. The Accounting Officer submitted that the actual pays slips and amount paid through the bank were correct. There were however system inaccuracies in the reports generated which have since been corrected.

Committee Observation

393. The Committee observed from the explanation of the Accounting Officer at the time of examination that the system inaccuracies regarding reports generated on salaries had been corrected and the amounts were reconciled hence the matter is resolved.

400. In the circumstances, the recoverability of staff advances of Kshs.43,271,000 could not be confirmed.

Management Response

401. The Accounting Officer informed the Committee that Staff imprests of kshs 40,676,791.00 relates amounts issued to the Authority's staff in the 47 regions to undertake activities as per KeRRA's mandate. The Imprests continue to be surrendered by staff and where necessary recovery measures have been instituted against staff where communication is received that the activity was not undertaken. The current aged staff imprests amounts to **kshs.11,527,045**. The Current Aged Staff imprests was submitted.

402. Staff Advances of kshs 2,594,154.45 have been fully accounted for in the subsequent financial years

Committee Observation

403. The Committee observed from the explanation of the Accounting Officer at the time of examination that the staff advances had been fully recovered and the documentary evidence submitted by the Accounting Officer was satisfactory hence the matter is resolved.

16. Failure To Revalue Fully Depreciated Fixed Assets in Use

404. Fixed assets amounting to Kshs.819,328,471 included in the Authority's asset register were fully depreciated, still in use and had not been revalued as detailed below;

Fixed Asset	Acquisition Cost Kshs.
Building	1,769,314
Plant and Machinery	52,852,955
Motor Vehicles	421,760,160
Office Equipment	20,901,583
Furniture and Fittings	117,850,008
Computers and Software	204,194,451
Total	819,328,471

412. In the circumstances, the accuracy, completeness and validity of roads infrastructure assets totaling to Kshs, 124,175,119,000 could not be confirmed.

Management Response

413. The Accounting Officer submitted that the Road Inventory for the Authority is provided vide gazette supplement no 4 of 22nd January 2016. The Authority submitted the Gazette Notice and a roads inventory for review.

Committee observation

414. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Roads Inventory was availed for verification by the OAG, hence the matter is resolved.

18. Unsupported Payables

415. The statement of financial position reflects payables balance of Kshs.49,006,015,000 as disclosed at Note 24 to the financial statements which includes current payables from exchange transactions balance of Kshs.41,020,863,000 and non-current payables from exchange transactions balance of 7,985,152,000. However, payables schedule was not provided for audit purposes.

416. Further, the following variances in payables were noted between the financial statements balances and the respective ledgers balance:

Item Details	Financial Statement Balance Kshs	Ledger Balance Kshs	Variance Kshs
Due to Contractors			
Trade Creditors	38,277,691,914	10,306,481,017	27,971,210,897
Equalization Fund HQ	450,487,885	231,249,383	219,238,502
Other Trade Payables-General			
Performance Security Bonds	2,028,000	1,250,000	778,000
Trade creditors	2,036,897,598	928,466,654	1,108,430,944

works cost – maintenance and employment costs of Kshs.156,998,000 and 17,835,000 respectively were not provided.

421. The under expenditure affected the planned activities and may have impacted negatively on road infrastructure delivery to the public.

Management Response

422. The Accounting Officer submitted as follows—

1. The under expenditure was as a result of funds received at the end of the financial year and did not have any negative impact on road infrastructure delivery to the public.
2. The capital expenditure has been included in the budget as a transfer to the GOK development fund because they are not revenue in nature.
3. The over expenditure in respect of road works cost – maintenance and employment costs of Kshs. 156,998,000 and 17,835,000 respectively is as a result of rolls-over road works committed and already funded from the previous financial year and executes them in the current Financial year.

Committee observation

423. The Committee observed from the explanation and documents submitted by the Accounting Officer at the time of examination that delayed disbursement of the budget allocations attributed to its under expenditure and over expenditure; hence, the matter is resolved.

20. Failure To Adhere to a Third Gender Rule

424. An analysis of the staff bio data provided for audit revealed that out of seven hundred and forty-eight (748) staff, there were five hundred and twenty-five (525) male and two hundred and twenty-three (223) female. The number of women were therefore below a third of the total number of staff contrary to the requirements of Article 27 (8) of the Constitution which stipulates that not more than two thirds of the members shall be of the same gender.

425. Management was in breach of the law.

Management Response

426. The failure to adhere to a Third Gender Rule is a legacy issue and the Authority continues to work towards compliance of the 1/3 gender rule in its operations, appointments and training.

22. Stalled And Incomplete Projects

22.1. Delayed Completion of Projects

436. Review of projects records provided revealed that in the financial year under audit, a total of thirty-one (31) new contracts were awarded on different dates, with total contract cost of Kshs.46,715,868,748. Further, there were 91 projects awarded between April, 2016 and September, 2020 with a total contract cost of Kshs. 180,656,714,960 of which advance payments totaling to Kshs. 16,198,531,681 had been paid as at 30 June, 2022. However, the projects remain incomplete mostly due to delay in payments.

437. Value for money for the incomplete projects could not be confirmed.

Management Response.

438. The Accounting Officer submitted that the authority had projects which remained incomplete mostly due to delay in payments. The Authority continues to experience challenges funding development projects due to inadequate budgetary allocation and delayed exchequer releases. This had greatly impacted the progress of these projects.

Committee Observation

439. The Committee observed from the explanation of the Accounting Officer at the time of examination that pending bills significantly impacted the ongoing and planned infrastructural projects in the road sector, thus an increase in stalled projects.

Committee Recommendation

440. The Committee recommends that the Accounting Officer should prioritize completing the pending projects before embarking on any new projects.

441. Further, that within three (3) months upon adoption of this report, the Accounting Officer should expedite the engagements with the National Treasury in order to obtain a way forward on the pending projects and submit a status report on the utilization of the securitization of the fuel levy in paying pending bills and interests.

Details	Audit Verification
Road length	7.3Km
Tarmac section in the market	0.4Km
Road works done	6.9Km
Road width	7meters
signage	Not done
Culvert Installation 900mm	8 Cross Culvert
Culvert Installation 600mm	9 Access Culvert
Stone Pitching	Done
Provide and Place Gabion Installation	Not done and not paid for
Provide and place Rock fill to Gabion	Not done and not paid for
Heavy grading	Notable
Provide gravel wearing course-excavation spread, water and compact gravel to specifications	Notable

447. The works were therefore, not fully complete and the outstanding retention amount of Kshs.727,876 may not be able to cover for the costs.

448. In the circumstances, value for money on amounts spent on the project could not be confirmed.

Management Response

449. The Accounting Officer submitted and clarified as follows—

- i) Retention money is used to address any defects during the Defects Liability Period and can only be refunded as per the contract agreement. The funds have not been refunded.
- ii) Handing over and completion certificate are only issued after substantial inspection or end of Defects Liability Period.
- iii) Certificate paid for the project was an Interim Payment Certificate. Inspection and acceptance report are done after a substantial completion of the road.

24. Lack of an Updated Fixed Asset Register

457. Management did not maintain an updated fixed asset register as at 30 June, 2022, as required by Section 143 (1) of the Public Finance Management Act (National Government) which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession.

458. In the circumstances, Authority's assets may not be fully accounted for and maybe at risk of loss.

Management Response

459. The Accounting Officer submitted that the Authority Asset register captures of all basic information regarding a particular asset a per asset category. The Authority continues to implement its ERP system, and the Asset Module has been upgraded to comply with statutory requirements.

Committee Observation

460. The Committee observed from the explanation of the Accounting Officer at the time of examination that the attached fixed asset register was updated and verified by the OAG, hence the matter is resolved.

25. Unsupported Reversals in the Ledgers

461. A review of the ledgers provided shows that a total of 1,147 transactions reversals were effected during the period under review. However, there were no documentation provided showing approval of the reversals.

462. Under the circumstances, the entity is exposed to unauthorized transactions, which could affect the accuracy of the financial statements.

Management Response

463. The Accounting Officer informed the Committee that the Authority had incorporated workflows for error correction entries in the ERP system and now have provision for preparer, approver and attachment of documents in ERP.

Committee Observation

464. The Committee observed at the time of examination that the Authority had incorporated workflows for error correction entries in the ERP system and currently

internal controls that builds robust business operations as required under Regulation 165(1) of the Public Finance Management (National Governments) Regulations, 2015.

Management Response

472. The Accounting Officer stated that while the Authority did not have a documented Risk Management Policy during the audit period, risk-related matters were being addressed through internal controls and management oversight. Nonetheless a formal Risk Management policy had since been developed and adopted.

Committee Observation

473. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had developed and approved a Risk Management Policy that was operational, hence the matter is resolved.

3. Staff Establishment

474. The Staff Establishment of the Authority provides for one hundred and thirty (130) members of staff in various cadres and job groups. However, during the financial year 2018/2019, the Authority had forty-one (41) members of staff. Further, although each Department was supposed to be headed by a Manager, most of the Departments were headed by Assistant Managers in acting capacities. In addition, available information indicated that the Authority advertised for nineteen (19) positions on 30 January, 2018. However, only one position for Regional Manager, Lamu was filled despite interviews having been conducted for all the positions.

Management Response

475. The Accounting Officer submitted that the Authority had an approved establishment of 130 staff positions. As of the time Audit, only 45 positions had been filled, and the Authority had not fully staffed its human resource complement due to financial constraints. However, some of these constraints have since been addressed.

4.2. Land Ownership and Unregistered Leases

484. Examination of the land documents revealed the following anomalies;
- a) The land title deed for one parcel of land was in the name LAPSET instead of LAPSSET Corridor Development Authority (LCDA).
 - b) Leases for Regional Offices in Isiolo, Garissa and Lodwar, had not been registered with the Ministry of Lands and Physical Planning within the two months' compulsory period as required by Section 4(vi) of the Registration of Documents Act, 2010.

Management Response

485. The Accounting Officer informed the Committee that the Authority had engaged the National Land Commission (NLC) and the Ministry of Lands, Physical Planning and Housing to rectify this. The correction had been made, and all official records now reflect the accurate spelling.
486. The Authority had finalized the lease registration for all regional office spaces, and normal operations were fully in place.

Committee Observation

487. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had rectified the anomaly and the title deed had the correct name, and further the leases for Garissa, Lodwar and Isiolo were available, hence the matter is resolved.

5. Unsupported Board Expenses

488. Examination of records indicated that a Board Member was paid a total of Kshs.520,800 in respect of sitting allowances, and travel and accommodation allowances while attending Board meetings. However, supporting documents including airplane boarding passes and Board Attendance Register in support of the payments were not provided for audit review.

Management Response

489. The Accounting Officer submitted on the payment in allowances to a Board member, confirming that the LCDA Board held meetings outside its registered office locations—such as in Naivasha and Lamu—strictly upon invitation by State Corporations and other relevant institutions. These engagements included

Corporations Act which states that no meeting of a Board should be held at any place other than the registered or principal office of the state corporation.

Management Response

498. The Accounting Officer submitted on the payment in allowances to a Board member, confirming that the LCDA Board held meetings outside its registered office locations—such as in Naivasha and Lamu—strictly upon invitation by State Corporations and other relevant institutions. These engagements included induction and training workshops, as well as stakeholder consultation meetings, which are consistent with the official duties outlined under SCAC guidelines.

Committee Observation

499. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Authority submitted additional evidence of an email excerpt from State Corporations Advisory Committee (SCAC) inviting members of the Board for a “Mwongozo Induction Forum”.

500. Further, the Committee noted that it was SCAC which convened the induction forum and invited members of the Board of State Corporations as participants hence negating the requirement for approval from the same body (SCAC).

501. The Committee having confirmed that it was SCAC that invited members of the Board for the induction meeting, observes that the matter is resolved.

8. Irregular Recruitment of Staff

502. The statement of financial performance reflected an amount of Kshs.3,648,966 paid to thirty-seven (37) newly recruited members of staff. Review of the recruitment process revealed that the vacancies were advertised internally on 2 June, 2020 with a deadline for the application set for 5 June, 2020. Although records indicated that the Authority had issued appointment letters to the new staff by 10 June, 2020, evidence indicating that due recruitment process was followed including needs assessment, interview and scoring criteria were not provided for audit review.

Management Response

503. The Accounting Officer submitted that the Authority adhered to all established procedures and approvals during the recruitment process, including:

1. Prioritization of recruitment as a strategic response to longstanding understaffing;

510. Further, the bank reconciliation statement reflected unrepresented cheques of Kshs. 237,888, relating to payments made to KRA, which has been outstanding for a period of more than one year. It was not clear why these cheques had not been reversed in the cash book.

Management Response

511. The Accounting Officer submitted that the stale cheques had been reversed in the cashbook.

Committee Observation

512. The Committee observed from the explanation of the Accounting Officer at the time of examination that stale cheques had been reversed in the cash book and the OAG had adjusted on the same in subsequent years.

513. The Committee observes that since the stale cheques had been reversed, the matter is resolved.

11. Undisclosed Material Uncertainty Relating To Sustainability Of Services

514. The statement of financial performance reflects a deficit for the year under review of Kshs. 81,141,148 resulting in accumulated deficit of Kshs. 14,263,513 (2022: Accumulated Surplus – Kshs. 66,877,636). In addition, the current liabilities balance of Kshs. 60,963,089 exceeded the current assets of Kshs. 5,259,639 resulting to a negative working capital of Kshs. 55,703,450 as at 30 June, 2021. The precarious financial performance and position is an indication of existence of a material uncertainty which may cast a significant doubt on the Authority's ability to meet its obligations as and when they fall due. The financial statements have been prepared on a sustainability of services basis on the assumptions that the Authority will continue to receive financial support from the National Government and creditors.

Management Response

515. The Accounting Officer stated that the negative working capital was occasioned by budget cuts. However, the Authority has experienced a steadfast growth in budget over the last three years.

Committee Observation

516. The Committee observed from the explanation of the Accounting Officer at the time of examination that although the Accounting Officer stated that the

Management Response

522. The Accounting Officer submitted that the Authority adhered to all established procedures and approvals during the recruitment process, including:

1. Prioritization of recruitment as a strategic response to longstanding understaffing;
2. Obtaining Board and SCAC approvals in line with public sector recruitment guidelines;
3. Observance of the Human Resource Manual provisions prioritizing internal candidates;
4. Transparent internal advertising and suitability assessments conducted by a qualified committee;
5. Selection based on merit, performance history, and institutional needs.

523. The current approved staff establishment for the Authority stands at 249 positions. However, the number of staffs currently in post are 154.

Committee Observation

524. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had sought approvals from the Head of Public Service, the Public Service Commission and the Board for the recruitment.

525. The Committee observes that since the management had sought approvals to recruit, the matter is resolved.

14. Irregular Board Expenses

526. Examination of records indicated that a Board Member was paid a total of Kshs.520,800 in respect of sitting allowances, and travel and accommodation allowances while attending Board meetings. However, supporting documents including airplane boarding passes and Board Attendance Register in support of the payments were not provided for audit review.

Management Response

527. The Accounting Officer submitted on the payment in allowances to a Board member, confirming that the LCDA Board held meetings outside its registered office locations—such as in Naivasha and Lamu—strictly upon invitation by State Corporations and other relevant institutions. These engagements included induction and training workshops, as well as stakeholder consultation meetings, which are consistent with the official duties outlined under SCAC guidelines.

534. Further, Repairs and maintenance were occasioned by ageing in assets, which required more frequent and costly interventions than initially projected.
535. The reallocation was formally approved by the Board of Directors and proof of approval submitted.

Committee Observation

536. The Committee observed that the submission and evidence availed by the Accounting Officer on the reasons for the over expenditure were satisfactory and observes that the matter is resolved.

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16. Material Uncertainty Relating to Sustainability of Services

537. The statement of financial performance reflects a deficit for the year under review of Kshs. 81,141,148 resulting in accumulated deficit of Kshs. 14,263,513 (2022: Accumulated Surplus – Kshs. 66,877,636). In addition, the current liabilities balance of Kshs. 60,963,089 exceeded the current assets of Kshs. 5,259,639 resulting to a negative working capital of Kshs. 55,703,450 as at 30 June, 2021. The precarious financial performance and position is an indication of existence of a material uncertainty which may cast a significant doubt on the Authority's ability to meet its obligations as and when they fall due. The financial statements have been prepared on a sustainability of services basis on the assumptions that the Authority will continue to receive financial support from the National Government and creditors.

Management Response

538. The Accounting Officer stated that the negative working capital was occasioned by budget cuts, however, the Authority has experienced a steadfast growth in budget over the last three years.

Committee Observation

539. The Committee observed from the explanation of the Accounting Officer at the time of examination that although the Accounting Officer stated that the Authority had gazetted their land as a special economic zone and were exploring introduction of LAPSET development levy, the authority's sustainability plan was questionable.

Committee Observation

546. The Committee observed from the explanation of the Accounting Officer at the time of examination that the governance audit ought to be conducted by the OAG, given that the office of the Auditor General is the office primarily mandated to carry out audit processes; hence, the matter is resolved.

3.4 KENYA PORTS AUTHORITY (KPA)

THE AUDITOR GENERAL'S REPORT FOR THE FINANCIAL YEAR 2019/2020 AND 2020/2021

Overview of the State Corporation

547. The Kenya Revenue Authority is a state corporation under the National Treasury and Economic Planning charged with collecting revenue on behalf of the government of Kenya.

548. Parliament had examined the audit reports of KPA up to FY 2018/19.

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549. The Auditor General gave a qualified opinion and raised the following concerns;

1. Operating Revenue

550. As disclosed in Note 6 to the financial statements, the statement of profit or loss and other comprehensive income reflects operating revenue of Kshs.48,161,579,000. The following unsatisfactory observations were made:

1.1. Under-Charging of Revenue from Storage of Containers

551. The balance of Kshs.48,161,579,000 includes revenue arising from storage of empty containers of Kshs.561,383,000 and storage of full containers of Kshs.5,612,671,000, all totaling to Kshs.6,174,054,000. This amount is net of waiver on storage of Kshs.242,268,925. Examination of documents indicated that the waivers were granted on condition that the cargo would be cleared within seven (7) days after the waiver was granted, failure to which the storage fees would be secured in full. However, the cargo that had not been cleared within the seven days had accumulated storage fees of Kshs.242,268,925 which were not secured by the Management. Further, storage waiver amounting to Kshs.24,885,400 was

555. The second step is evaluation of the applications received by the Waiver Committee. The Committee performs this task by assessing the merits of an application guided by the Waiver Policy.

556. Where the amount of waiver granted is beyond a given threshold (above Kshs. 1,000,000), the Committee's recommendations are escalated through an internal memo to the Managing Director for approval. This is the third step.

557. Upon securing Management's approval, the customer is given feedback accordingly. This is the fourth step in which the decision made is communicated vide a letter addressed to the customer and copied to Manager Financial Accounting for processing of credit notes. This letter advises the customer to clear their consignments within seven days from the date of issue.

558. If the customer is unable to evacuate their cargo within the specified period, the customer has an opportunity to seek revalidation which is a process that gives a new lease of life to the expired waiver letter. This is the fifth step. Once revalidated, the customer is given feedback accordingly and proceeds to evacuate their cargo.

559. The sixth and last step is approval by the Board of Directors. This is done on a quarterly basis where Management prepares appropriate memo to the Board for ratification. The Board's resolutions on such cases are communicated back to Management for appropriate action and guidance.

A.3 Step by step analysis of the Ministry of Devolution's case

560. The table below addresses the queried item by providing a step-by-step analysis of the various phases of the waiver handling process from application stage to Board's approval.

S/No.	Subject matter at different stages	Document type
1	Application for waiver of storage charges for 80 x20ft fully laden containers said to contain rice.	Letter from the consignee (Ministry of Devolution and ASAL) dated 4 th December 2019 Ref. NT/GCA/OPS/4/001/VOL. II (083)

S/No.	Subject matter at different stages	Document type
12	Feedback to the client	Letter dated 23 rd July 2020 Ref. COMM/2/2/07/1735/2019
13	Board approval	Board Resolution - 370 th Regular Board meeting 30 January 2020 - 112 th Finance and Asset Committee meeting

B.0 Waiver of storage charges granted to Selenkei Investments Limited

B.1 Introduction

561. The subject file relates to storage charges for a consignment of 92 x 40ft containers said to contain solar power equipment for Selenkei Investment Limited. Selenkei Investment Limited is a private company incorporated in Kenya in 2011. At the time of handling their waiver request, the company had a Power Purchase Agreement with the Government of Kenya to supply electricity to the Kenya Power and Lighting Company.

B.2 Waiver handling process

562. The waiver handling process is the same as explained in the previous case.

B.3 Step by step analysis of the Selenkei Investments Limited's case

563. The table below addresses the queried item by providing a step-by-step analysis of the various phases of the waiver handling process from application stage to Board's approval.

S/No.	Subject matter at different stages	Document type
1	Application for waiver (92x40ft containers said to contain materials for	Letter from the consignee (Selenkei Investments Limited) dated 27 th November 2019; received at KPA on 28 th November 2019.

S/No.	Subject matter at different stages	Document type
		- 112 th Finance and Asset Committee meeting

564. Therefore, due diligence was done in awarding the waivers and storage revenue of Kshs 6,174,054,000 for the year ended 30 June 2020 was fairly stated.

Committee observation

565. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Accounting Officer submitted the Board and Ministry of Devolution approval to grant the waivers on storage charges.

566. The Committee observed that since the Authority obtained the official approvals to grant the waivers on storage charges, the matter stands resolved.

1.2. Un-Confirmed Licenses Revenue

567. Note 6 to the financial statements shows licenses revenue of Kshs.176,143,000, out of which Kshs.65,915,532 relates to revenue earned on Liquefied Petroleum Gas (LPG) handled by African Gas and Oil Company Limited. A review of the license agreement dated 21 September, 2007 between Kenya Ports Authority (KPA) and African Gas and Oil Company Limited indicated that the Company was to pay a license fee in US Dollars for an amount equal to twenty-five percent (25%) of the Company's revenue derived directly from each tonne of LPG discharged, payable on a quarterly basis. Records provided for audit indicated that KPA charged the license fees based on a calculation of estimated service revenue of the Company charged at US Dollars twenty- two and sixty-five cents (USD22.65) exclusive of taxes for each tonne of LPG discharged at the facility as per Clause 7.7 of the Agreement without verifying the actual revenue of the Company. The rate charged was US Dollar one cent (USD 0.01) higher than the US Dollar twenty-two and sixty-four cents (USD22.64) provided in the agreement. However, KPA did not provide evidence that this was the service fee charged by the Company to base the revenue billed on the same. Consequently, the accuracy and validity of the license fee of Kshs.92,566,974 collected for the year ended 30 June, 2020 could not be confirmed.

- Clause 2.2 A non-exclusive license to develop, construct, operate use and maintain the Facility for 33 years.
- Clause 2.5 non-discrimination. Should KPA permit another entity to engage in a similar business, KPA is to ensure the competitor does not enjoy any preference or advantage over AGOL.
- Clause 7.6 Tariff Charge; tariff rate to be charged by KPA to users of the Facility shall be limited to KPAs tariff for shore-handling services only. There will be no discrimination.
- Clause 7.7' AGOL to charge user service fees of USD 22.64.
- Clause 11.1; AGOL shall provide discharge and loading services at the Facility for all persons seeking to discharge or load LPG at the Port in accordance with the agreement.
- Clause 11.2; services to be offered on a commercial basis but subject to tariff collection procedures and conditions-not to discriminate against any person who wishes to use it.
- Clause 11.4; AGOL shall not refuse any user unless the facility is damaged, for safety reasons.

Committee observation

571. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had provided the annual service bill certificates of actual revenue of AGOL on a quarterly basis for the financial year under review.

572. The Committee observes that since the annual service bill certificates of actual revenue were provided for verification, the matter stands resolved.

2. Unconfirmed Establishment Expenses

573. As disclosed in Note 9 to the financial statements, the statement of profit or loss and other comprehensive income reflects establishment expenses amounting to Kshs.19,520,491,000. The following unsatisfactory observations were made:

2.1 Basic Salary Paid for Hours not Worked

574. The above balance of Kshs.19,520,491,000 constitutes basic salary of Kshs.7,473,722,000. Audit review of records revealed that basic salary was paid based on the hours worked as clocked in the time management system. However, the Management approved payment for hours not worked when staff came to work late (authority to work) and when staff left work before time (staff

2.2 Time Statement for Employee No. 562913

November 2019

Weekly total				16.50	10.22	6.28-	0.00	
04	Mo		EE not at work	0.00	0.00	0.00	0.00	ZOFF
05	Tu	T037 T006	06:37 09:45 3.13					
			Paid off 09:00 15:00 6.00	8.25	3.00	5.25-	0.00	Z1SU
06	We	T036 T007	06:43 15:04 8.34	8.25	7.75	0.50-	0.00	Z1SU
			Paid Break 0.50					
07			Authority to work 06:45 07:34 0.82					
		T006 T007	07:34 15:02 7.46	8.25	6.93	1.32-	0.00	Z1SU
			Paid Break 0.50					
08	Fr	T036 T007	06:34 15:04 8.51	8.25	7.75	0.50-	0.00	Z1SU
			Paid Break 0.50					
09	Sa	T039 T007	06:46 09:25 2.65					
			Paid off 09:00 15:00 6.00	8.25	2.65	5.60-	0.00	Z1SU
			Loss of Pay 0.25					
Weekly total				41.25	28.08	13.17-	0.00	
11	Mo	T038 T007	06:46 15:05 8.32	0.00	0.00	0.00	0.00	ZOFF
			Overtime @ 2 off da 8.00					
12			Authority to work 06:45 07:58 1.22					
		T007 T007	07:58 15:05 7.11	8.25	6.53	1.72-	0.00	Z1SU
			Paid Break 0.50					
13	We	T036 T007	06:35 15:01 8.44	8.25	7.75	0.50-	0.00	Z1SU
			Paid Break 0.50					
14	Th	T036 T007	06:33 15:03 8.49	8.25	7.75	0.50-	0.00	Z1SU
			Paid Break 0.50					
15	Fr	T036 T007	06:35 15:01 8.43	8.25	7.75	0.50-	0.00	Z1SU

Summary of staff on release

Staff Release Reasons	No. of Staff
Covid 19	927
KECOSO Games	34
Time OFF for Exams	54
Staff Retreat	14
Court Case	2
Sports Activities (Bandari FC games)	13
Attending Burial	183
Tender Evaluation	23
Pregnancy (Released due to COVID-19)	1
Lactating Mothers (Released due to COVID-19)	3
Total Count	1,254

579. During the period under review, there was a global outbreak of Covid-19 pandemic which caused disruptions in normal working arrangements. As a mitigation measure, some employees were released to work from home to minimize the spread of the virus. This was in line with the Presidential Directives and Gazette Notices issued by the Government. A detailed list of staff on release with related reasons for maintaining the release was submitted.

580. On the 239 employees, management confirms that the said employees were recovered Kshs 39,871,195.00 for hours lost through absenteeism. A breakdown of the amounts recovered was provided.

581. Additionally, it was noted that the recoveries were not effected fully due to compliance with the one third rule on employee earnings as per section 19(3) of the Employment Act of 2007. In this regard, management is committed to ensure that the salaries and allowances paid and not worked for, are recovered in full as soon as the financial situation of the affected staff improves. This is as provided for in the Human Resource Manual, 2017 Paragraph C.4 (b).

582. Management wishes to clarify that the absences of the said employees were not for a continuous period of more than ten (10) days, but rather the absences were spaced out within the calendar month, hence the aforementioned action taken. Therefore, section K.5 (a) of the Human Resource Manual 2017 was not violated.

		Pp 57	Pp 66	(Pp 57 – Pp 66)
4	564209	136,680.00	157,890.00	136,680.00 - 178,390.00
		Pp 57	Pp 62	(Pp 57 – Pp 66)

587. This was in line with the provision of the Kenya Ports Authority Act Chapter 391 Part IV. Section 9 (d) which states thus: -

Subject to the directions of the Board, the Managing Director may—

(d) approve any alteration in salaries, wages or other terms and conditions of service of employees not involving expenditure in excess of the limits determined by the Board within its powers under paragraph (b) of section 10 on powers of the Board which reads as follows in 10 b)

588. *In the exercise of its duty under section 8, and subject to any directions of a general nature which may be given to it by the Minister, the Board may—*

(b) Approve any minor alteration in salaries, wages or other terms and conditions of service of employees of the Authority;

589. It is imperative to note that the staff did not have their salaries changed after they had accepted the offer given that technically they did not accept the initial offers, leading to revision of the same based on the above provisions.

590. In the past, the Managing Director approved similar cases and therefore serves as a precedent.

591. The Managing Director effectively indicated his approval by appending his signatures to the initial offers, the revised offers as well as the appointment letters which indicated the revised salaries.

Committee observations

592. The Committee observed that a schedule of breakdown of the 239 employees absent from work was provided.

593. The Committee observed that the mandate of revising personnel emoluments of staff of parastatals was vested with the Salaries and Remuneration Commission (SRC), and thus the KPA Act that mandated the Managing Director to alter the salaries with approval of the Board was in contravention of the SRC Act.

594. The Committee observed that the Authority further submitted proof of recovery of the allowances paid to the absentee employees without permission.

599. In view of the foregoing, there was immense pressure to increase the manning levels at operational areas within the Authority. This could not be achieved because of a circular letter issued by the Secretary of the State Corporations Advisory Committee (SCAC) letter Ref: OP/SCAC.9/83 (78) dated 18th May, 2018 which froze the filling of all vacant positions until such a time that the staff establishment is considered and approved. (-SCAC *Employment Freeze submitted*).
600. As a result of the freeze in filling of vacant positions, the Authority had to authorize the staff to work overtime beyond the set overtime hours of thirty percent (30%) enhanced time of the normal monthly hours for operational employees and twenty percent (20%) for administrative/non-operational employees.
601. Therefore, the expenditure of Kshs 879,764,063 in excess overtime allowances paid during the audit period was inevitable for the smooth running of port operations and to meet business/customers' demands.
602. Additionally, Management has implemented system locks to only pay overtime within the 30% cap with effect from March 2020 and any overtime hours worked above the set limit must be approved by the Managing Director for payment. Memo Ref: HRAM/1/6/20 of 19th November 2019 on System Configuration and Implementation of 20% & 30% Overtime limits to ICT and Staff Circular MMN/9/2/03 26th August 2021 on Overtime Management.

2.4 Third Shift Allowances Paid to Staff

603. Management wishes to confirm that the third shift allowances of Kshs 54,643,899 for the year ended 30 June 2020 was in line with:
- (a) CBA 2018-2019 Clause 14. (e) Third Shift as a normal shift
Third Shift is regarded as a normal shift like the first and second shifts. However, due to the "Unsociable Hours" worked during the third shift, a compensation of 15% of the basic monthly salary shall be paid in addition to the monthly salary provided that: -
- i. The employee has been rostered to work on the shift and,
 - ii. The employee has worked for at least one full week of the third shift within the month he was rostered.
- (b) CBA 2018-2019 14. (f) Repeated Third Shift
Repeated third shift will be paid at 15% of the Basic Salary.

Committee recommendation

610. The Committee recommends that in future the Accounting Officer should ensure the management employs new staff to mitigate the need for overtime payment.

2.5 Overtime Allowances Paid to Employees on Training Grades

611. Included in overtime allowances of Kshs.2,441,884,000 is an amount of Kshs.29,469,195, for overtime allowances paid to employees on training grades, contrary to Paragraph C.9 (h) of the Kenya Ports Authority Human Resource Manual, 2017 which prohibits payment of overtime allowances for this category of employees. Consequently, the propriety and validity of overtime allowances of Kshs.29,469,195 for the year ended 30 June, 2020 could not be confirmed.

Management response

612. The management stated that the 150 employees were on training grades for the period under review and were paid overtime allowances due to exigency of services caused by shortage of staff arising from:

613. The expansion of port services.

- i. Operationalization of the first phase of the 2nd Container Terminal
- ii. Standard Gauge Railway (SGR),
- iii. expansion of the Inland Container Depot (ICD) Nairobi and Naivasha
- iv. The completion and operationalization of first berth at the Port of Lamu.

614. Natural attrition without corresponding recruitment as recruitment had been frozen by State Corporations Advisory Committee (SCAC) letter Ref: OP/SCAC.9/83 (78) dated 18th May 2018.

615. Compliance to COVID – 19 pandemic Safety Protocols

616. The above-listed demanded for more labour and to mitigate same, it became necessary to deploy employees on training grades to work during normal shift and overtime where applicable. The assigning of the trainees to work overtime was approved by respective departmental heads.

Committee observations

617. The Committee observed that employees on training grades were staff who were undergoing on-job training to operate special machines, and with time they would operate the machines on their own and thus qualified to work on shifts.

624. Management clarifies further that the 1,337 employees who worked for eight hours in a day and were paid overtime allowance amounting to Kshs 214,652,054, were part of employees who worked beyond their scheduled/normal work time as already pointed out. A sample screen shot of employee time statement is shown below.

Evaluation period from 01.07.2019 to 31.07.2019											
Individual results											
Day	Text	ITer	OTer	Start	End	rec.	Plnd	Skel.	Flex	OTime	DWS
01	Mo	T073	T073	06:37	23:02	16.43	8.25	7.75	0.50-	0.00	Z1SU
	Overtime @ 1.5					8.00					
	Paid Break					0.50					
02	Tu	T073	T073	06:34	18:01	11.46	8.25	7.75	0.50-	0.00	Z1SU
	Overtime @ 1.5					3.00					
	Paid Break					0.50					
03	We	T073	T064	06:39	18:05	11.43	8.25	7.75	0.50-	0.00	Z1SU
	Overtime @ 1.5					3.00					
	Paid Break					0.50					
04	Th	T073	T064	06:20	18:02	11.69	8.25	7.75	0.50-	0.00	Z1SU
	Overtime @ 1.5					3.00					
	Paid Break					0.50					
05	Fr	T072	T064	06:20	18:05	11.76	8.25	7.75	0.50-	0.00	Z1SU
	Overtime @ 1.5					3.00					
	Paid Break					0.50					
06	Sa	T064	T065	06:24	18:01	11.62	0.00	0.00	0.00	0.00	ZOFF
	Overtime @ 2 off da					11.00					
07	Su	T064	T064	06:45	18:09	11.39	0.00	0.00	0.00	0.00	ZOFF
	Overtime @ 2					11.00					
Weekly total							41.25	38.75	2.50-	0.00	
08	Mo	T064	T073	06:25	18:06	11.67	8.25	7.75	0.50-	0.00	Z1SU
	Overtime @ 1.5					3.00					

Committee observation

625. The Committee observed that the approval process was done post-facto to avoid disruption of services, hence the matter stands resolved.

2.7 Irregular Payment of Berth Productivity Incentive

626. The balance of staff allowances of Kshs.2,228,097,000, out of which Kshs.872,182,131 was paid as monthly berth productivity incentive to 3,669 employees. Records provided for audit indicated that the Management approved payment of berth productivity allowance only when there is

9.	Reward paid to each of the remaining staff in the team per hook	=	$(0.30 \text{ of } z_2) / x$
----	---	---	------------------------------

Ship's crane performance target

MOVES PER HR PER CRANE		MOVES PER SHIFT PER CRANE	REWARD KES
8(Minimum)		64-71	200
9 -10		72-87	250
11 -12		88-103	265
13 -14		104-119	285
15 - 16		120-128	300

4.1.3 Formula: combi berths

1.	Operations Performance Reward (y)	=	No. of Moves per Shift \times Rate per container
2.	Technical Staff Reward (z_1)	=	5% of y
3.	Operation Staff Reward (z_2)	=	95% of y
4.	Reward Paid to Key Staff	=	70% of z_2
5.	No. of Key Staff per hook		n
6.	Reward paid to One Key Staff	=	$(0.7 \text{ of } z_2) / n$
7.	Reward paid to the remaining staff in the team per hook	=	30% of z_2
8.	The total no. of the remaining staff in the team per hook	=	x
9.	Reward paid to each of the remaining staff in the team per hook	=	Kenya shillings $(0.3 \text{ of } z_2) / x$

productivity among employees working in the berth section. Further, the Committee observed that the Management provided minutes of the Board approving payment of the incentive for verification by the OAG.

630. The Committee observes that since the accounting officer submitted the Board's approval of the payment of the incentives, the matter stands resolved.

3. Unsupported Expenditure – Operating Expenses

631. Operating Expenses As disclosed in Note 10 to the financial statements, the statement of profit or loss and other comprehensive income for the year ended 30 June, 2020 reflects operating expenses of Kshs.6,852,267,000.

3.1 Fuel Expenses

632. Included in the operating expenses of Kshs.6,852,267,000 are fuel expenses amounting to Kshs.905,470,000. During the year under review, Management issued fuel purchase orders for Kshs.295,355,691. Although the Authority migrated from purchase order system to pipeline system during the year under review, evidence of fuel usage and invoice details on the new system were not provided for audit review. Further, the Authority requested for exemption from the Head of Public Service Circular. No. OP/CAB.9/108A of 30 April, 2015 which directed Ministries and Government Agencies to liaise and negotiate with the National Oil Corporation of Kenya (NOCK) for supply of fuel through a letter Ref. PSM/PC/3/06 of 27 December, 2019. However, approval of the request was not provided for audit review. Consequently, the validity of fuel expenses of Kshs.905,470,000 for the year ended 30 June, 2020 could not be confirmed.

Management response

633. The management stated that the Local Purchase Orders (LPOs) worth Kshs. 295,355,691 were issued to Fossil Supplies Limited. This was done outside the pipeline system. The LPOs were issued using material codes different from the pipeline process. The supplies were awarded as a stopgap measure since the Authority was dissatisfied with the level of services it was receiving from the National Oil Corporation of Kenya (NOCK). This move was intended to avert disruption of services.

634. LPOs were stopped from being issued to fuel vendors since the price of fuel keeps on fluctuating on monthly basis hence the Authority opted for the pipeline payment system i.e. the payment is done by inputting the current prices

who possessed the requisite infrastructure and resources to serve the port in a manner above what the Authority had received from NOCK.

Committee observations

639. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Head of Public Service issued a Circular requiring government agency to source for fuel directly from the National Oil (NOCK). However, NOCK was not in a position to supply the fuel.
640. The Committee observed that the management had provided extracts of the invoices that were used to settle fuel expenses. However, KPA contracted Fossil Supplies Limited through direct procurement and this was necessitated by the incapacity of NOCK to supply the fuel.
641. The Committee further observed that KPA had sought for assistance from the parent Ministry regarding the challenge it was experiencing on fuel supply and the Ministry did not revert on the assistance sought.
642. The Committee observes that the explanation of the Accounting Officer on resulting into direct procurement as a stop gap measure as a result of failure by NOCK to supply fuel in line with the circular by the Head of Public Service is satisfactory, hence the matter is resolved.

3.2 Repair, Renovations and Rehabilitation of Kisumu Pier and Dock Infrastructure

643. The operating expenses of Kshs.6,852,267,000 also include expenditure incurred on port infrastructure repairs of Kshs.2,541,375,000, out of which Kshs.63,307,155 was in respect of proposed renovations and modifications of Kisumu pier and dock yard offices. Available records indicated that purchase order for Kshs.101,270,166 was issued to a contractor for the works. Although, the contractor invoiced the Authority and was paid for works valued at Kshs.63,307,155, details of measured works, approved and certified works paid for were not available for audit review. Under the circumstances, the propriety and validity of the amount paid to the contractor of Kshs.63,307,155 could not be confirmed

Management response

644. The Management stated that they agree with the auditor's findings regarding the issuance of an LPO for Kshs 101,270,166 to M/s Koornamme Ladies Welfare group for the renovation of offices at the Kisumu Port and payments amounting

within six months after the end of the tax period in which the supply or importation occurred.'

Management response

649. The Management stated that the input VAT amounting to Kshs 26,893,244 was expensed during the year since it could not be offset against the Output VAT. The Authority was barred from offsetting the input VAT as the invoices were processed beyond the six months period allowed for offsetting the input VAT. Where the input VAT is not deductible, the Income Tax Act under section 15 allows it to be expensed as expenditure wholly and exclusively incurred in the production of income.

Summary of the reasons for not offsetting the input VAT are provided below:

No.	Amount - Kshs	Reason for not offsetting	Remedial Action
1	16,807,374.00	Time barred resulting from Board embargo on Civil works payments on account of Ethics & Anti-Corruption Commission investigation for the period January 2020 to January 2021 when the embargo was lifted.	Sensitization on resolving payments disputes within the allowed six months period.
2	8,661,998.00	Time barred resulting from late submission of invoices by vendors	Sensitization on submission of invoice within the allowed six months period
3	552,693.00	Expressly barred from offsetting input tax – VAT Act section 17 (4)	Allowed to expense in accordance with Income Tax Act Sec. 15(1)
4	532,756.00	Time barred resulting from system malfunction due to network interruptions	System network power backups installed.
5	282,971.00		

652. The OAG informed the Committee that in the subsequent year's audit the management had improved its accounting processes as the losses had significantly reduced.
653. The Committee observes that since the Management had improved its system and minimized losses in the subsequent year, the matter is resolved.

5. Inclusion of Bandari Maritime College Expenditure

654. The statement of profit or loss and other comprehensive income reflects total operating expenses of Kshs.41,412,101,000 for the year ended 30 June, 2020, out of which Kshs.191,008,710 relates to Bandari Maritime College. However, the College became an autonomous entity vide Executive Order No.1 of 2018 with a Board of Directors and even submitted the financial statements for the year ended 30 June, 2020 to the Auditor- General for audit. The amount ought to have been classified as grants or transfers to other Government entities. Consequently, the operating expenses of Kshs.191,008,710 could not be confirmed as fairly presented.

Management response

655. The management stated that as Bandari College, which had hitherto been a department of Kenya Ports Authority, embarked on the journey of separation from the Kenya Ports Authority (KPA), it encountered a multitude of challenges pertaining to existing contracts and ongoing services in addition to staff complement and competence. In adherence to the stipulated terms of separation, it was incumbent upon the KPA to responsibly conclude these contracts prior to the finalization of the separation process. Consequently, the conversion of these existing contractual obligations into grants for Bandari College which did not previously operate as an independent legal entity would have been futile and impractical.
656. It is paramount to acknowledge that all invoices were directed to KPA, and the framework purchase orders were similarly designated under the auspices of the KPA. This underscores the intricate web of contractual obligations that were deeply interwoven with the operations of KPA. Therefore, a straightforward transfer of these obligations to Bandari College in the form of grants would not only have been administratively burdensome but would also have failed to accurately reflect the true essence of the contractual relationships established under the purview of the KPA.

664. Therefore, the Kshs 409,925,742 was accrued only after giving reference to the relevant LPO or correspondence with evidence of actual services provided or work commencement to third parties by the Authority. Expenditure accrued included ongoing repairs and maintenance services, uniform and safety gear, printing works, Auditor-General fees amongst others. Invoices, and documentation were submitted. Accruals are reversed in the subsequent financial year when the invoices are received and processed.

Committee observation

665. The Committee observed from the explanation of the Accounting Officer at the time of examination that the invoices and other documentation were availed for verification by the OAG hence the matter stands resolved.

666. The Committee directs the Authority to avail documents in time to the OAG in line with section 68 (2) (k) of the Public Finance Management Act, Cap 412A.

7. Accrued Liability For Defined Contribution (DC) Members

667. The statement of financial position as at 30 June, 2020 reflects retirement benefits non-current liability of Kshs.3,374,400,000 and current liability of Kshs.535,200,000, all totaling to Kshs.3,909,600,000. Audit review of the actuarial valuation report of the scheme indicates a total of 3,490 active members in the defined benefit scheme, out of whom 2,675 are members who moved to the defined contribution although a portion of their pension benefits was still held in the defined benefits scheme. However, the actuarial valuation report indicated that the valuation of assets was based on 3490 members instead of 795 members, contrary to The National Treasury Circular Ref. No EPN 171/07 Vol Q (94) dated 16 June, 2011 which directed the Authority not to grant revaluation to those who choose to move to the DC Scheme or to those who had to move to the DC Scheme because they were below 45 years. The valuation may have been materially overstated by inclusion of outstanding defined benefits portions retained when the members moved to the defined contribution scheme. Consequently, the accuracy of retirement benefit liability of Kshs. 3,642,000,000 as at 30 June, 2020 could not be confirmed.

Management response

668. The management stated that the National Treasury Circular No. 18 of 2010 under clause 1 (b) required all government entities' Pension Schemes to convert

scheme and DB scheme are only accruing future benefits effective 01 January 2013 from the DC scheme. So, there is no double benefit for those members.

673. Based on the Treasury circular No. 18 of 2010 and RBA Prudential Guideline 001, actuarial valuation was done for 3,490 members (2,675 who are in both DB & DC Schemes, while 795 members were in only in DB Scheme).

674. The DB Scheme closure structure and the DC Scheme structure were all approved by the Retirement Benefits Authority and National Treasury.

Committee observations

675. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had anchored the operations of the retirement benefits scheme on the prudential guidelines that stated the method of handling deficits that arose from the migration of members from the DB to the DC scheme and captured the deficit in their financial statements.

676. The Committee further noted that the management obtained approvals from the National Treasury and the Retirement Benefits Authority to convert from DB schemes to DC schemes.

677. The Committee observed that since the Authority obtained approvals from the National Treasury and the Retirement Benefits Authority with regards to migration of members from the Defined Benefits to Defined Contribution Scheme, the matter stands resolved.

8. Alienated Properties

678. As similarly reported in the previous year, the property, plant and equipment balance include land leased-out valued at Kshs.15,190,900,000 and land and buildings with a net book value of Kshs.76,329,444,000 as at 30 June, 2020. Information provided for audit review indicated that twenty-nine (29) parcels of land belonging to the Authority had been invaded by private individuals and companies. The Management indicated that third parties had purportedly acquired ownership rights over the properties and undertaken initiated development thereon. However, the Authority had filed suits in various courts of law which are still pending for determination. Further, out of these twenty-nine (29) properties, only nine (9) properties valued Kshs.755,100,000 were included in the Authority's fixed assets register while seventeen (17) properties valued at Kshs.732,500,000 and three (3) properties of unknown value were not included. Consequently, the property, plant and equipment balance of Kshs.267,063,658,000 as at 30 June, 2020 was therefore, not fairly stated.

No.	Parcel Number	SIZE
28.	Mombasa/Block 1/469	0.2501 Ha
29.	Mombasa/Block 1/528	0.1100 Ha
	Mombasa/Block 1/529	0.5059 Ha

680. Third parties purportedly acquired title documents over the plots, and some have even undertaken developments on some parcels of land. In some of the parcels, KPA and EACC have taken steps to file various cases for recovery through cancellation of the titles and eviction as the case may be.

681. With respect to the audit observation, the table below summarizes the status of the cases filed by KPA and the status of the plots:

No.	Plot No.	Illegally Allocated To	Revalued Amount (Kshs)	Status	Case No./ Lawyers
1	Mombasa/Block XLVII/111 0.704 Acres	Robert Mutiso P. O. Box 285587 Nairobi	87,500,000	This case was filed by KPA on 5 th October 2001 against Robert Mutiso Lelli, Commissioner of Lands, KCB and the Chief Land Registrar. KPA seeks a permanent injunction to restrain the defendants from dealing with land parcel which was registered under the name of the General Manager East	ELC NO. 495 OF 2001 - KPA vs Robert Mutiso Lelli and 3 Others A.B Patel and Patel LLP

No.	Plot No.	Illegally Allocated To	Revalued Amount (Kshs)	Status	Case No./ Lawyers
				<p>to pursue an amicable settlement with KPA. Through an email dated 22nd July 2024, Masumin's Advocate wrote to KPA's Advocate on stating that it was duped into buying the property for Kes. 7.5 Million Shillings and that it is willing to relinquish the title to KPA in settlement of the suit with each party bearing its own costs.</p> <p>KPA has since instructed its Advocate to accept the proposal and structure a consent to be filed before the next Mention</p>	

No.	Plot No.	Illegally Allocated To	Revalued Amount (Kshs)	Status	Case No./ Lawyers
				<p>irregularly allocated to Stonewave Limited.</p> <p>This matter was consolidated with ELC No. 497 & 498 of 2001, heard and concluded. In its consolidated judgment delivered on 30th May 2023, the Environment and Land Court found in the Authority's favour with respect to XXVI/508 and Mombasa/Block XVII/112.</p> <p>However, Essam Properties Limited and Nile Limited under Stonewave Limited filed the Mombasa Court of Appeal Cases Nos. E086 and</p>	

No.	Plot No.	Illegally Allocated To	Revalued Amount (Kshs)	Status	Case No./ Lawyers
				<p>stay of execution of the decree but also restrained Kilifi Gardens Limited from dealing with the properties further.</p> <p>The Court of Appeal registry will likely fix the appeal for pre-trial directions</p>	
3	<p>Mombasa Block XLVII/113</p> <p>0.535 Acres</p> <p>Asset No. 170147</p>	<p>Supernova Properties</p> <p>P. O. Box 82077</p> <p>Mombasa</p> <p>Directors</p> <p>Ashok L.Doshi</p> <p>Doshi Group of Companies</p>	65,000,000	<p>KPA filed suit for recovery of the parcel of land on 25th February 2005.</p> <p>An application filed by Supernova seeking to dismiss the suit for failure to serve summons was allowed by the Court, and the suit was struck out on 22nd April 2022. The suit as</p>	<p>MSA ELC No. 40 of 2005</p> <p>A.B. Patel & Patel Advocates</p>

No.	Plot No.	Illegally Allocated To	Revalued Amount (Kshs)	Status	Case No./ Lawyers
				<p>Limited (XLVII/115). In the 3 matters, M/s Red Sparrow Ltd which asserts ownership over the parcels was joined as a Defendant in the suits. The 3 matters are scheduled for hearing on 12th November 2024.</p>	
4	<p>Mombasa Block XLVII/114</p> <p>0.363 Acres</p> <p>Asset No. 170148</p>	<p>Santunia Limited</p> <p>P. O. Box 87270</p> <p>Mombasa</p>	37,500,000	<p>KPA filed this case on 25th February 2005 against Santunia Limited, Commissioner of Lands and the Chief Land Registrar seeking to recover the land which was initially registered in the name of the General Manager East</p>	<p>ELC No. 42 of 2005 - KPA vs Santunia Limited & others.</p> <p>A.B. Patel & Patel Advocates.</p>

No.	Plot No.	Illegally Allocated To	Revalued Amount (Kshs)	Status	Case No./ Lawyers
5	Mombasa Block XLVII/115 0.422 Acres Asset No. 170149	Freight Constructors services Ltd	50,400,000	KPA filed this suit on 25 th February 2005. M/s. Red Sparrow Ltd which claims to have acquired ownership over the parcels has since been joined as a Defendant.	HCCC No.43 of 2005 - KPA vs Freight Constructors Services LTD & others. A.B. Patel & Patel Advocates
6	& Mombasa Block XLVII/116 0.639 Acres Asset No. 170150		76,000,000	Parties have complied with pretrial directions and the matter has been fixed for hearing on 12 th November 2024.	

				<p>the name of the General Manager East African Railways and Harbors Cooperation. The suit property was later discreetly transferred to TSS Grain Millers in or about the years 1997, 1998 and or 1999.</p> <p>M/s. Red Sparrow Ltd which claims ownership of the property has been joined as a Defendant.</p> <p>The matter has been fixed for hearing on 12th November 2024.</p>	A.B. Patel & Patel Advocates
No.	Plot No.	Illegally Allocated To	Revalued Amount (Kshs)	Status	Case No./ Lawyers
9	Mombasa Block XLVII/179 0.0336 Ha	<p>Akaba Investment P. O. Box 8997 Mombasa</p> <p>Directors Abdikarim Shigog</p>	18,200,000	<p>This land (Mombasa Block XLVII/179) is an access road to KPA Pension properties formerly owned by KPA.</p> <p>KPA and KPA Pension Scheme commenced proceedings against Akaba Investment Limited where KPA claimed that it was the registered and beneficial owner of the fee simple interest in the property known as</p>	<p>ELC NO. 282 of 2018 - Kenya Ports Authority and Kenya Ports Authority Pension Scheme Suing through its trustees vs Akaba Investments Limited</p> <p>Cootow and Associates Advocates.</p>

				and Another, which has not been prosecuted. In the meantime, the case before the ELC has been fixed for hearing on 27 th November 2024.	
10	Mombasa Block 1/469 0.2501 Ha	Hydery (P) Limited P. O. Box 82576 Mombasa Masumali G. Merali Naushad A. Merali	Not Revalued	Warehouse built on plot. Matter referred to Ethics & Anti-Corruption Commission for recovery action. KPA officer already recorded witness statement with EACC.	No court case has been filed. The EACC is still conducting investigations as communicated in its letter dated 5 th September 2024 Ref: EACC/MS.6/11/2/VOL IV (233)
11	Mombasa/Block XXVII/508 0.1278 Acres Asset No. 170126	Essam Properties P. O. Box 82578 Mombasa Directors Masumali G. Merali Naushad A. Merali	108,000,000	The case was filed by KPA on 5 th September 2002 against Essam Properties Limited, the Commissioner of Lands and Chief Land Registrar seeking to reclaim parcel of land. The matter went to full hearing and judgment delivered on 30 th May 2023, where the Environment and Land Court found in KPA's favour with respect to XXVI/508 and XLVII/112.	ELC 497 of 2001- Kenya Ports Authority v Essam Properties & 2 Others A.B. Patel & Patel Advocates Copy of the Judgment delivered on 24.9.2018.

		Masumali G. Merali Naushad A. Merali		recovery of the parcel of land. The case was consolidated and heard with ELC Nos.497 and 499 of 2001, and a consolidated judgment was delivered on 30 th May 2023. The Environment and Land Court found in the Authority's favour with respect to XXVI/508 and XLVII/112. However, it was found in favour of Kilifi Gardens in XXVI/928. KPA has appealed specifically against the decision in respect of this property. The Court of Appeal has since stayed execution of the ELC judgment and restrained any further dealings in the property.	Limited, Commissioner of lands. A.B. Patel & Patel Advocates Copy of the Judgment delivered on 24.9.2018.
13	Mombasa/Block XXVI/1001 Approx. 0.1805 Ha	Wayland Limited P. O. Box 12416 Nairobi	37,000,000	The case was filed by KPA against Wayland Limited, Commissioner of Lands and Chief Land Registrar seeking to reclaim parcel of land Mombasa/Block XXVI/1000 and	MSA ELC CAS No. 211 of 2018 (Originally HCCC No. 500 c 2001) - Kenya Ports Authority v Wayland Ltd & others

		Ashok L. Doshi Doshi Group of Companies			
16	XLVII/151 Approx. 0.450 Ha	Venezia Ent. Limited P. O. Box 86029 Mombasa Directors Abdul-Gaffur Abdulgani Pasta	37,500,000	Plot created from road reserve at either side of road at Dockyard and adjacent to Port fence. No development. Matter referred to the EACC for recovery action.	No court case has been filed. The EACC is still conducting investigations as communicated in its letter dated 5 th September 2024 Ref: EACC/MS.6/11/2/VOL IV (233)
17	XLVII/152 Approx. 0.450 Ha		37,500,000		
18	XLVII/153 Approx. 0.450 Ha		37,500,000		
19	XLVII/154 Approx. 0.450 Ha		37,500,000		
20	XLVII/155 Approx. 0.068 Ha Asset No. 140154	Oceanfreight (MSC) P. O. Box 80637 Mombasa	161,200,000	Plot created out of a road reserve in front of plot XLVII/84 belonging to KPA and on long term lease to Ocean freight EA Ltd. The plot cuts off plot 84's frontage and access to Moi Avenue.	No court case has been filed. Matter referred to Ethics & Anti-Corruption Commission for recovery action

No.	Plot No.	Illegally Allocated To	Revalued Amount (Kshs)	Status	Case No./ Lawyers
24	XLVII/165 Approx. 0.0496 Ha	As above	20,000,000	As above	The EACC has concluded investigations and the matter is pending filing of a suit for recovery as communicated in its letter dated 5 th September 2024 Ref: EACC/MS.6/11/2/VOL IV (233)
25	XLVII/166 Approx. 0.0497 Ha	Joseph Ngetich P. O. Box Mombasa	20,000,000	As above	The EACC has concluded investigations and the matter is pending filing of a suit for recovery as communicated in its letter dated 5 th September 2024 Ref: EACC/MS.6/11/2/VOL IV (233)
26	XLVII/167 Approx. 0.0502 Ha	Lumda Ent. P. O. Box 20712 Nairobi.	22,000,000	As above	The EACC has concluded investigations and the matter is pending filing

29	Mombasa/Block I/528 0.1100 Ha	Chembe Holdings and Musk Deer Daniel N Kihiko	Not Revalued	EACC filed this suit on 10 th March 2009 for recovery of KPA's parcels of land.	ELC Case No. 70 of 2009/ ELC Suit No. 71 of 2009 KACC VS Chembe Holdings LTD & 2 others.
	Mombasa/Block I/529 0.5059 Ha	Abbas M Yusuf		The case has been set for hearing on 19 th November 2024.	
		TOTAL	1,487,600,000		

682. With respect to the Environment & Land Court Civil Suit No. 245 of 2004; Kenya Ports Authority Vs. G. Wayumba (Geometer Surveys Ltd), Commissioner of Lands, District Land Registrar Mombasa, Wayland Ltd, Essam Properties Ltd and Kilifi Gardens Ltd, KPA had on diverse dates between 1992 – 2002 engaged Geometer Surveys Limited to formulate, carry out and implement cadastral survey and process title deeds for KPA's various parcels of land. However, the said surveyor in breach of his duties and without consultation with KPA, and in collusion with the Land Registry, unlawfully, fraudulently dealt with KPA's various parcels of land. Therefore, KPA filed the referenced suit.

683. The ELC entered judgement in favour of KPA on 24th September 2018 declaring that excision of portions from KPAs original parcels by creating new ones in the names of private parties was null and void. The Court ordered for the excisions to be revoked and for rectification of the register accordingly. An application for a stay of the decision and setting it aside has been filed by the defendants.

684. Following the delivery of the judgement, two parties namely Essam Properties Limited and Kilifi Gardens Limited applied to have the judgement in respect of the Plots No. MOMBASA/BLOCK XXVI/928 and MOMBASA/BLOCK XXVI/508 stayed on the ground that the Authority had earlier filed HCCC No. 497 of 2001 – Kenya Ports Authority vs Essam Properties Limited & 2 Others and HCCC No. 498 of 2001 – Kenya Ports Authority vs Kilifi Gardens Limited & 2 Others which were filed earlier and were still pending determination before the Court. The two private parties successfully argued that the judgement was sub-judice the aforementioned cases.

685. After this judgement and the subsequent Ruling, KPA is therefore pursuing the recovery of title with respect to Mombasa/Block/XXVI/1001. In respect to

693. For the parcels of land without titles, actions to secure new titles are underway. KPA proceeded and undertook official searches for the plots. KPA also filed affidavits for issuance of provisional titles. For two plots MSA/BLOCK/XLVIII/131 and MSA/BLOCK/I/315 the green cards were missing in the Kalamazoo binders and in the loss cards. KPA could not lodge searches. However, the Land Registrar has officially been requested to avail the files. KPA also filed cautions to protect the interests of the Authority.

694. On 26th July 2019 the following three plots were gazetted and KPA has contacted the Land Registrar to issue new titles after the expiry of 60 days as stipulated in the Gazette notice. Details of the plots and gazette notice are shown below.

- a) Notice No 6899 for MSA/Block/XLVIII/131
- b) Notice No 6901 for MSA/Block/I/315
- c) Notice No 6902 for MSA/Block/XLVIII/156

695. Out of the three parcels mentioned above, KPA has succeeded in obtaining titles for the following two plots: - MSA/Block/XLVIII/131 and MSA/Block/XLVIII/156, copies of the titles submitted.

696. It is to be noted that out of the 17 parcels reported to be without titles, 6 have titles. The remaining 7 parcels are those that were grabbed by third parties. The same were referred to the Ethics and Anti-corruption Commission for recovery. For parcel No. MSA/BLOCK 1/358, KPA is gathering ownership records that will enable writing to the Lands Registrar to issue title to the Authority.

697. Parcel Nos. 77/78/79, were long consolidated into one parcel and later sub divided into two, creating MSA/BLOCK/XLVII/173 and MSA/BLOCK/XLVII/174. Titles for the two parcels submitted. Internal investigations are ongoing with regards to parcel Number MSA/BLOCK XLVII/106 with the aim of engaging the Lands Registrar for the title.

Further details of the status of the 17 parcels are as shown in the table below:

No	Description	Asset No	Revalued Amount	Value during Audit	Status
11	PLOT NO. BLK NO. XLVII/112 -0.7503 ACR BANDARI/W.HOUS	170146	80,000,000.00	153,500,000.00	Land grabbed, matter with EACC for recovery.
12	PL NO.BLK XLVII/113 -0.2165 ACR- BANDARI/WHITE HSE	170147	31,000,000.00	65,000,000.00	Land grabbed, matter with EACC for recovery.
13	PLOT NO. BLKXLVII/114/14 - 0.1496 ACR- BANDARI/WHITE HS	170148	19,800,000.00	37,500,000.00	Land grabbed, matter with EACC for recovery.
14	PLOT NO. BLK XLVII/117 -0.2258 ACR- BANDARI/WHITE HSE	170151	22,900,000.00	63,000,000.00	Land grabbed, matter with EACC for recovery.
15	PLOT NO. BLK XLVII/118 -0.3759 ACR- BANDARI/WHITE HSE	170152	51,100,000.00	111,500,000.00	Land grabbed, matter with EACC for recovery.
16	PLOT NO. XLVII 77/78/79 -2.4071 ACR-B/ COLLEGE	140234	213,500,000.00	211,000,000.00	The three plots were consolidated into one parcel and later sub divided into two plots namely MSA/BLOCK XLVII/173 and 174. Titles submitted.

(iii) Disappearance of court files from the court registries necessitating reconstruction of skeleton files. Leave of the court is required in such instances.

(iv) Several Lead counsels leaving law firms and in one instance, demise of the lead counsel.

699. Management wishes to confirm that they used their best efforts to reclaim the lands. These efforts included seeking various interventions from the government which unfortunately did not yield the desired results.

700. On the consultant, M/s KPMG was contracted by Kenya Ports Authority vide tender number KPA/122/2015-16/MD to conduct a forensic audit of the Authority's land and property on 19th May 2017. This was a recommendation by the Board Audit & Risk Committee in its 43rd meeting held on 11th March 2016 which was adopted by the full Board.

701. An inception land audit report was tabled to ExCom on 9th October 2017 where KPMG had identified land references and leased properties relating to the Authority. In addition, M/s KPMG sought to subcontract the services of a professional surveyor and valuer to confirm boundaries and acreage as well as market rental and values of the leased properties.

702. Due to budget constraints the assignment stalled in February 2018 and the engagement of the subcontractors for valuation and survey services was not undertaken then. Deed of Contract Amendment was signed between M/s KPMG and KPA; for the resumption of the exercise and inclusion of the subcontractors for the survey and valuation.

Committee observations

703. The Committee observed that there was a high risk of KPA losing a big part of their land to squatters and third parties who were currently occupying.

704. The Committee was concerned with the laxity of the Authority for failing to taking measures to secure the Authority's land such as placing caveats on titles of the contested parcels.

705. The Committee noted that there was an external audit being carried out by KPMG audit firm on the status of the KPA lands and the Managing Director pledged to ensure the process was completed and report implemented.

Committee recommendation

711. The Committee observed from the explanation of the Accounting Officer at the time of examination that the assets amounting to Kshs 1.67 billion had been transferred to Bandari Maritime Academy, and the asset register had been updated in the subsequent year.

712. The Committee observes that since the assets amounting to Kshs 1.67 billion were transferred and the asset register updated, the matter stands resolved.

8.4. Land and Buildings - Impairment

713. Note 11 to the financial statements reflects impairment totaling Kshs.316,910,000 as at 30 June, 2020, out of which Kshs.199,819,000 is in respect of land and buildings. Available documents and information indicated that out of the twenty-nine (29) properties impaired, nineteen (19) pieces of land had been encroached by informal settlers and impairment of Kshs.187,069,550 provided as a percentage of Kshs.1,167,442,445, which was revalued to Kshs.5,197,500,000. However, after the assets revaluation, the impairment was still based on the original cost of the assets of Kshs.1,167,442,445. Therefore, the impairment is understated by Kshs.688,820,450. Under the circumstances, the accuracy of land and buildings impairment figure of Kshs.187,069,550 as at 30 June, 2020 could not be confirmed.

Management response

714. The management stated that the revaluation exercise was undertaken by M/s Sec & M Ltd in FY2018-2019. Land and buildings revaluation amounts were carried at cost less impairment losses. Therefore, the management could not have gone ahead to impair whereas the same had already been factored in their values. The Kshs 187,069,550 has since been reversed vide document nos. 9086888 and 9086889. the list with details of the parcels of land and impairment amounts as well as the executive summary of the asset valuation report were available.

Committee observation

715. The Committee observed from the explanation of the Accounting Officer at the time of examination that the amount in question had been reversed after the valuation was undertaken. However, the Committee further noted that the lands in question were occupied by squatters and the Authority was yet to place caveats on the titles of the said lands.

716. The Committee observes that since the amount in question was reversed hence a reconciliation on the impairment done, the matter stands resolved

paid in FY 2019/2020, and Kshs 4,950,000,000 was outstanding as at 30 June 2020 and reported as a liability. The amount was paid in FY2020/2021.

Committee observation

723. The Committee observed at the time of audit that the management paid the dividends as per the dividend policy, and the same was verified by OAG.

724. The Committee observes that since the dividends were paid as per the dividend policy, the matter stands resolved.

10. Irregular Payment of Acting Allowances

725. As disclosed under Note 9 to the financial statements, the statement of profit or loss and other comprehensive income reflects staff allowances of Kshs.2,228,097,000. As a result, a total of Kshs.1,314,145 was paid to staff as monthly acting allowances beyond the six months in the year under review. A review of human resource records indicated that eight (8) employees had been serving in acting positions for more than six (6) months, contrary to Paragraph B11(f)I of the Kenya Ports Authority Human Resources Manual, 2017, which states that 'acting appointments shall be limited to six months at any given time'. Consequently, Management is in breach of the law.

Management response

726. The management stated that the eight employees had continued to act while awaiting the substantive filling of the positions through a competitive interview process which was at the final stages at Board level. The observation that the acting appointments had gone on for more than six (6) months was attributed to diverse factors which include:

- i. The recruitment process being handled externally by a consultant and was in two phases, that is, preliminary interviews by Deloitte and the second level of the interviews by the Board of Directors.
- ii. The substantial number of applications that was being handled was for more than fifty (50) vacant positions.
- iii. The general length of period it took to fill the posts from the time the positions fell vacant to engagement of the successful candidate after the external process of recruitment.

727. At its 339th Regular Board meeting held on 8th February 2018, the Board gave its approval for Management to advertise some vacant positions at grade HE2

No.	Activity	Date
2	Advertisement of vacancies	12 th -26 th February 2019 - 2 weeks-
3	Submission of Inception Report - Deloitte Project plan indicated that the search for the right candidates would take 16 weeks.	February 2019
4	Interviews for 5 Head of Department roles.	Preliminary Interviews by Deloitte and final interviews by KPA Senior Management were held between 20 th March – 7 th June 2019
5	Interviews for 32 Senior Officers Grade HM2 were held.	Screening interviews held between 1 st May - 28 th June 2019 Final interviews with KPA Management held between 19 th June to 10 th July 2019
6	Interviews for 4 Principal Roles Grade HM1 & 1 Senior Medical Officer Grade HM2	Preliminary Interviews by Deloitte and final interviews by KPA Senior Management held between 26 th March and 5 th September 2019
7	Interviews for 11 Principal Roles Grade HM1	Preliminary Interviews by Deloitte and final interviews by KPA Senior Management held between 26 th March and 15 th October 2019

22 years. This resulted to employees registering up to eleven (11) children with an overall figure of 1,067 dependants in excess of the 23,822 expected. The records further indicated that a total of seventy-three (73) spouses above the age of sixty years were registered as dependants. Medical expenses of Kshs.4,978,326 was incurred in respect of twenty-eight (28) spouses above the age of sixty years while Kshs.798,974 was incurred in respect of twelve (12) issues above the age of 22 years. However, Ministerial approval of suspension of the provisions of the Policy Manual was not availed for audit review contrary to Section 11(c) of the Kenya Ports Authority Act, CAP 391 which gives powers to the Minister to approve any major alterations in salaries, wages or other terms and conditions of service of employees.

- iii. Included in the hospital/referrals bills of Kshs.104,384,460 are private inpatient fees for employees in management positions and their dependants. However, details of employees who are eligible for private hospital services were not availed for audit verification.

735. Consequently, Management is in breach of the law.

Management response

736. The management stated that during the audit period, Kenya Ports Authority offered medical services through its Medical Services Department. This was fully funded by the Authority.

i. Irregular Registration of Dependents

737. Paragraph E.1(a) and (f) of the Kenya Ports Authority Human Resource Manual 2017 for medical treatment for self, spouse below the age of sixty (60) years, and a maximum of four (4) children up to the age of 22 years only. This change was an emotive issue leading to the suspension of the clauses in the Human Resource Manual 2017 and deferment in the CBA 2018 – 2019 and 2020 -2023. The matters were still under negotiation. Hence the registration is not irregular.

ii. Unapproved Private Inpatient Expenses

738. All KPA employees are admitted to private hospitals when needing in-patient care. The room provision in these hospitals is as per the grade of the employee.

NEW GRADE	WARD CATEGORY
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the entity could spend on medical expenses for each employee. Further, the number of dependents was not specified in the CBA.

741. The Committee observed that the Management of KPA had reviewed their medical policy and set limits to be spent for each employee, and the number of dependents was clearly stipulated.
742. The Committee noted that the lack of capping on the amount to be spent might have led to abuse. However, the Committee observed that this has since been addressed with the review of the medical policy.
743. The Committee observed that the management had provided documents detailing the employees who were qualified to visit a private hospital.
744. The Committee observes that since the medical policy was reviewed to improve its operation, the matter stands resolved.

12. Operational/Running Supplies

745. Included in the operational expenses of Kshs.6,852,267,000 is an amount of Kshs.749,801,000 in respect of operational/running supplies. Documents provided for audit review indicated that the Authority varied contracts with nine (9) cleaning service providers as a result of additional cleaning areas that were omitted during the procurement process. Out of the nine (9) contracts, seven (7) were varied by more than 25% of the original contract prices, resulting in additional cost of Kshs.37,884,242. This is contrary to Section 139(6) of the Public Procurement and Asset Disposal Act, 2015 which states that, 'where variations result in an increment of the contract price by more than twenty-five percent, such variations shall be tendered for separately.' Consequently, Management is in breach of the law.

Management response

746. The management stated that the additional scope of work was in compliance with section 103 (2) (d) of the Public Procurement Act, 2015 which states that the procuring entity, having procured goods, technology or services from a supplier or contractor determines that additional supplies shall be procured from that supplier or contractor for reasons of standardization or for the need of compatibility with existing goods, equipment, technology or services, taking into account the effectiveness of the original procurement in meeting the needs of the procuring entity.

755. The biodata presented for audit review as at 30 June, 2020 indicated that the Authority had 2,156 employees in management positions and 4,499 on permanent terms, giving a total to 6,655. Included in management positions are members of one ethnic group with a total of 1,790 (39.79%), contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that 'no public establishment shall have more than one third of its staff from the same ethnic community.' Consequently, Management is in breach of the law.

Management response

756. The management stated that the Authority is currently renewing efforts to ensure compliance with Section 7(2) of the National Cohesion and Integration Act, 2008. The current staff numbers and composition in terms of ethnic representation could be historical in nature, that is, the dominant community may over time have had more representation especially before the Act came into existence in 2008.

757. From the ethnic composition analysis of the Authority's employees tabulated below, the Mijikenda have for the past 3 years reduced from 35.69% (2019) to 34.44% (2022) while employees from the Taita, Teso, Pokomo, Kenyan Somali, Orma and Bajuni tribes have increased.

758. The Authority has made efforts to improve the numbers by actively hiring from under-represented communities hence reducing the numbers of the dominant community to ensure that in the long run there is compliance with the Constitution. For illustration, during the three most recent mass recruitments the Authority engaged 27 members of the Gabbra, Borana and Rendile ethnic groups which previously had very low representation in the Authority. It should also be appreciated that rectifying the situation to ensure the numbers conform to the Act will take some time but is achievable and the Authority endeavors to comply with the Act.

759. The Authority is actively increasing its efforts to comply with the Law, as demonstrated by the fact that out of 297 staff recruited in 2021/2022 FY, only 36 (12%) were from the Mijikenda Community.

Committee observation

760. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had a number of officers from the minority community employed in the subsequent recruitment process.

761. The Committee observes that since the Accounting Officer has endeavored to comply with Article 130(2) of the Constitution on reflection of regional and

767. The Authority has been continuously monitoring progress on this matter as part of continuous improvements. Sample show cause letters on over commitment of salary and response letters from staff who were addressed submitted.

Committee observations

768. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management of KPA did not refute the fact that it had breached the Public Service Commission Human Resource Policies and Procedures Manual, 2016, on over commitment of salary.

769. Further, the Committee noted that the management had taken steps to remedy the situation by issuing a circular cautioning employee to comply with the 1/3 rule on basic salary.

Committee recommendation

770. The Committee reprimands the Accounting Officer for breaching section C.1(3) of the Public Service Commission Human Resource Policies and Procedures Manual, 2016 and section 19(3) of the Employment Act, Cap 226 on the a-third basic rule and directs that the management should henceforth ensure that officers do not overcommit more than a third of their salaries.

15. Non-Compliance with the Employment Act, 2007 on Recruitment of Employees

771. Human resource records availed for audit review indicated that the Authority recruited one hundred and twenty (120) employees in various grades. Included among the one hundred and twenty (120) are forty (40) dockers who were engaged on contract terms for ICD Nairobi. However, requests from the relevant departments for additional staff, job adverts, application letters, long and short lists, interview minutes and reports, and approval by the Board for the recruitment were not availed for audit review. This contravened Section 5(2) of the Employment Act, 2007 states that "An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice". Further, included among the one hundred and twenty employees are fifty-two (52) employees engaged in compliance with a Presidential directive communicated vide letter reference MOT&I/C/SM/004/2 VOL.II/65 of 22 October, 2019 on employment of KPA choir members. However, out of the fifty-two (52) employees, four (4) had primary school certificates while nine (9) had sworn affidavits stating that they did not possess any academic qualifications. Therefore, the new staff were recruited contrary to the Authority's Scheme of Service which

Nos.	Staff Check Nos.
12	564185
13	564187

Committee observation

776. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management undertook recruitment of staff following a Presidential directive to undertake the recruitment of the choir members.
777. The Committee observed that the explanation by the accounting officer is satisfactory, hence the matter is resolved.

16. Unapproved Human Resource Policy Instruments

778. Human resource documents availed for audit review indicated that as at 30 June, 2020, the Authority had a total of 6,655 employees in various positions. However, the Authority's human resource policy instruments which include organizational structure, staff grading, staff establishment and its human resource manual had not been approved by the State Corporations Advisory Committee. This contravened circular Ref. No. OP/SCAC.9/21/1/1 dated 15 May, 2017 of the State Corporations Advisory Committee which requires all state corporations to submit human resource policy instruments for approval. Consequently, Management is in breach of the law.

Management response

779. The Management stated that the Human Resources Instruments have since been approved by the State Corporations Advisory Committee and the parent Ministry. The Board at its 402nd Regular meeting held on 9th June 2022 approved implementation of SCAC approved HR instruments.

Committee observation

780. The Committee observed from the explanation of the Accounting Officer at the time of examination that the human resource policy instruments had been approved by SCAC, hence the matter is resolved.

17. Employees Appointed to Positions not in the Staff Establishment

785. Further, the Committee observed that a new staff establishment has since been adopted and no employees were in supernumerary positions.

786. The Committee observes that since a new staff establishment has been adopted, the matter is resolved.

18. Non-Compliance with the Human Resource Policies and Procedures Manual, 2015 on Employees Above Sixty (60) Years

787. A Payroll audit for the year ended 30 June, 2020 indicated that the Authority had incurred employee cost of Kshs.15,642,702 in respect of two (2) employees who had attained the mandatory retirement age of sixty (60) years. This is contrary to the Human Resource Policies and Procedures Manual for the Public Service, 2015 which states that 'all officers shall retire from the Service on attaining the mandatory retirement age of 60 years, 65 years for persons with disabilities and/or as may be prescribed by the government from time to time.

Management response

788. The management stated that pilotage is an essential service conducted by a highly skilled and professional personnel, and critical in the authority's core business. Pilotage is a compulsory service within the jurisdiction of the authority unless for small vessels licensed for exemption.

789. The required qualification for a marine pilot is Class I Master Mariner (CoC) from a recognized maritime institution and subsequently go through a practical ship handling and pilot Channel orientation in accordance with the Marine Pilot Scheme of service and Training before they are assessed for pilot licensing.

790. Marine pilots have knowledge of local conditions and a high level of ship handling experience within specific pilotage area. They operate under a very high levels of concentration combined with a heavy workload which can result in high levels of fatigue causing a serious maritime accident leading to a disaster. Fatigue is a safety issue, and it is recommended that marine pilots have a minimum of 48 hours rest period before their next shift.

791. Due to strenuous and psychological effects, pilots work under the ILO recommended rest periods and working pattern to avoid fatigue and accidents. Marine pilots are part of an aging maritime workforce with the available recruitment pool diminishing globally. The Authority's lack of consistence in recruitment and training of pilots had created a shortage of qualified marine pilots.

evidence that the companies awarded the service provision contracts were gazetted as customs storage areas was not provided for audit review. In addition, during audit inspection in the month of November, 2020 at Inland Container Depot Nairobi, details of the number of containers transferred to the storage warehouse per day and evidence of un-availability of space at the Depot before approval of transfer of the containers were not availed for audit verification. Consequently, the validity of the contracts for warehouse storage facilities awarded to the nine companies and whether containers were transferred due to lack of storage space at the Depot could not be confirmed.

Management response

797. The management stated that the operationalization of the Standard Gauge Railway at ICD Nairobi made the depot experience rapid growth in handling cargo. To ease the holding capacity, the Authority urgently needed to commence procurement for warehouse services to control the rapid growth of cargo.
798. The Authority selected firms through a restricted tender and invited bids. The choice of restricted tender for the provision of warehouse service at ICD Nairobi was for the following reasons;
- i. There was urgency in having to engage service providers so as to manage cargo flow and operations
 - ii. Open tendering would have been timely and costly.
 - iii. The service providers needed to be in proximity to ICD Nairobi to effectively and efficiently execute the service being provided.
799. The award was done through a tendering process. When tendering process was completed nine (9) firms as follows were awarded:
- i. M/s. Great Lakes Ports Limited
 - ii. M/s. Alpha Grain Millers Limited
 - iii. M/s. Regent & Roth Storage Services
 - iv. M/s. P.N. Mashru Limited
 - v. M/s. Mitchell Cotts Freight (Kenya) Limited
 - vi. M/s. Magnate Ventures Limited
 - vii. M/s. G.N. Cargo Kenya Limited
 - viii. M/s. Signinon Group Limited, and
 - ix. M/s. Awanad Enterprises Limited.

shortcoming, staff at marine department prepared marine records namely: Pilotage, Navigational Dues, Tug services, Mooring, Dockage and Fresh water for ships manually, which are later filed per vessel and taken to finance department for billing in the financial management system. This exposes the marine billing to manipulation and errors. Consequently, the effectiveness of the internal controls could not be confirmed.

Management response

806. The Management stated that the KWATOS – Marine Module is fully operational and is currently utilized for the generation of both Interim and Final Bills within the SAP system.
807. Documents originating from the marine module are prepared and seamlessly interfaced with the SAP System for billing purposes. It should be appreciated that, all over the world, the Pilot log chits, are manually prepared, this serve as concrete documentary evidence supporting the data that eventually posted in Marine Module and interfaced to SAP for billing. These log chits are signed by both the Captain/Pilot of the vessel and the KPA Chief Pilot, thereby authenticating the services rendered and the billing conducted in accordance with the KPA Tariff.
808. Below are screenshots from the KWATOS Workflow for the years 2020 and 2018, affirming that the data generated by the Marine Module is efficiently interfaced with SAP to generate invoices. This integration ensures accuracy and reliability in the billing process, thus maintaining transparency and accountability within the operational framework.
809. Below are screen shorts of KWATOS Workflow of the year 2020 and 2018 confirms data generated by Marine Module is interfaced with SAP to generated invoices.

Screenshot- June 2020



Code Operation Service Equipment Control Miscellaneous Billing

System MARINE

Home>>Billing>>Marine Interim Billing

Search Save Reset

Search Option

ETA 01-11-2018 00:00 ~ 19-11-2018 12:31 Vessel Schedule 2018 Find

Vessel Schedule

This is the Vessel booking list

Send SAP	Vessel Code	Call Year	Call Seq	Vessel Name	Shipping Agent	Berth No	ETA	ATA	ETB
	KTN	2018	1471	KIRSTEN MAERSK	STURROCK	SOT	19-11-2018 20:00		18-11-2018 21:00
<input checked="" type="checkbox"/>	9508	2018	1478	SEA LEOPARD	INCHCAPE	B01	19-11-2018 09:00		19-11-2018 10:00
<input checked="" type="checkbox"/>	1552	2018	1456	EAST WIND	ALBA PETROLEUM LTD	KOT	13-11-2018 06:00	05-11-2018 06:30	13-11-2018 07:00
<input checked="" type="checkbox"/>	9502	2018	1417	AVRA I	NISOMAR LTD	B03	17-11-2018 06:00	17-11-2018 03:30	17-11-2018 07:00
<input checked="" type="checkbox"/>	1552	2018	1411	EAST WIND	ALBA PETROLEUM LTD	SOT	03-11-2018 12:00		03-11-2018 13:00
<input checked="" type="checkbox"/>	9516	2018	1463	CORONA	OBJ MARITIME SERVICES LTD	B03	09-11-2018 23:00	10-11-2018 20:30	09-11-2018 23:30
<input checked="" type="checkbox"/>	4625	2018	1474	SWALLOW ACE	INCHCAPE	B01	13-11-2018 02:00	13-11-2018 02:00	13-11-2018 03:00
<input checked="" type="checkbox"/>	1127	2018	1440	ALPHA CHALLENGE	SOUTHERN ENGINEERING COMP	SEC	01-11-2018 06:00	01-11-2018 06:00	01-11-2018 07:00
<input checked="" type="checkbox"/>	8288	2018	1430	ELKA ATHINA	STURROCK	KOT	03-11-2018 06:00	03-11-2018 17:29	03-11-2018 07:00

The Check box with the tick sign indicates

that interface to SAP has been done

Send Sap

Profit Center HARB. Payer Shipping Agent 310020 INCHCAPE Receipt No 0084040961 Send Sap

Interim Billing Items

Row#	Indicate	Billing Code	Description	Quantity	Paid
1		110000	PILOTAGE (ENTERING/LEAVING HARBOUR)	2	Y
2		110005	TUG SERV. (BERTH/UNBERTH) WITHIN 2 MILES	4	Y
3		110012	MOORING/UNMOORING	2	Y
4		110015	NAVIGATIONAL/LIGHT DUES	1	Y
5		110016	PORT (AND HARBOUR) DUES	1	Y
6		110155	SECURITY DUES	1	Y
7		110018	DOCKAGE	48	Y

These are billing items list to a

particular vessel from the booking list

Billing Items

Billing Code --Select-- Quantity Paid

Add Delete Clear

KENYA PORTS AUTHORITY

Home | Logout

SAP

System: SAP INTERFACE

Home >> SAP >> CATOS & SAP Doc No List

Search: Duplicate

Period From/To: 01-11-2018 -- 19-11-2018

SAP Doc No. [] Status: --Select--

Module Name: MARINE SERVICE CATOS Doc No. [] Location: MOMBASA

SAP Doc No. List | 138 rows retrieved

Row#	Module Name	Data Count	Catos Id	SAP Id	Vvd Code	Vessel Name	Receipt No	
1	Marine Master (Interim)		MIB0711185271	0020041324	OSLO20181419	HOEGH OSLO	0084040939	2018-
2	Marine Master (Final)		MIB0311185261	0000075770	GLM20181393	GLEND MELOI	0084040925	2018-
3	Marine Master (Final)		MIB2910185231	0000075750	RHR20181410	RIVER SHINER	0084040868	2018-
4	Marine Master (Interim)		MIB1311185300	0020041378	VDD20181455	VIL DARDANELI	0084040995	2018-
5	Marine Master (Final)		MIB0811185276	0000075786	950620181425	ASIA RUBY I	0084040952	2018-
6	Marine Master (Interim)		MIB1311185298	0020041372	951720181464	OCEANBEAUTY	0084040986	2018-
7	Marine Master (Interim)		MIB1511185309	0020041393	MSJN20181436	MSC JEANNE	0084041007	2018-
8	Marine Master (Final)		MIB0211185250	0000075771	JQUA20181400	JOLLY QUARZO	0084040901	2018-
9	Marine Master (Interim)		MIB0211185256	0020041293	54X20181369	HUGO SCHULTI	0084040912	2018-
10	Marine Master (Interim)		MIB0811185276	0020041336	950620181425	ASIA RUBY I	0084040952	2018-
11	Marine Master (Interim)		MIB0811185275	0020041331	BRMD20181437	BERMUDA	0084040946	2018-
12	Marine Master (Interim)		MIB1311185294	0020041366	MSDE20181467	Mac Denise	0084040983	2018-
13	Marine Master (Interim)		MIB0611185267	0020041317	KGMR20181402	KOTA GEMAR	0084040934	2018-
14	Marine Master (Final)		MIB0311185262	0000075819	828820181430	ELKA ATHINA	0084040920	2018-
15	Marine Master (Interim)		MIB1511185311	0020041397	953220181510	STI VIRTUS	0084041011	2018-
16	Marine Master (Final)		MIB1211185290	0000075817	3CM20181371	MAERSK JALAN	0084040977	2018-
17	Marine Master (Final)		MIB3010185246		852520181435	MAPINDUZI II	0084040894	2018-
18	Marine Master (Final)		MIB2910185232	0000075714	LKT20181406	LAKE STURGEO	0084040860	2018-
19	Marine Master (Final)		MIB0211185258	0000075728	155220181423	EAST WIND	0084040914	2018-
20	Marine Master (Interim)		MIB1611185319		952820181520	ALLAH KARIM		2018-
21	Marine Master (Interim)		MIB0911185283	0020041345	950820181478	SEA LEOPARD	0084040961	2018-
22	Marine Master (Final)		MIB0111185249	0000075755	LARA20181392	MSC LARA	0084040899	2018-
23	Marine Master (Final)		MIB0711185273	0000075801	AHN20181342	AFRICAN HALC	0084040944	2018-
24	Marine Master (Interim)		MIB0211185253	0020041290	922420181269	AYIA MARINA	0084040908	2018-
25	Marine Master (Interim)		MIB0611185269	0020041319	MCL20181461	MARIA CARLA	0084040932	2018-
26	Marine Master (Interim)		MIB1411185305	0020041387	951620181463	CORONA	0084041002	2018-
27	Marine Master (Final)		MIB0611185267	0000075769	KGMR20181402	KOTA GEMAR	0084040934	2018-

Vessel log chits are shown below;

KENYA PORTS AUTHORITY PILOTS LOG BOOK

DATE: 12/11/19 PORT CONVENIENCE: If Yes, tick [] ROTATION NO: H. 1. 1.

NAME OF VESSEL: (former) MW TURANDOT

GRT 55598 LOA 199.10 Type URL

MOVEMENT: from 01 to SEA

TUG(S): from 22 to 23

MORNING GANG: from 23 to 25

REMARKS: Purpose of call: Clauses: MG 2 Pilot 1-2 Tugs 2-2

PILOT'S SIGNATURE: [Signature] MASTER'S SIGNATURE: [Signature]

KPA/HMO/PM/016 E.11.1

KENYA PORTS AUTHORITY PILOTS LOG BOOK

DATE: 10/11/19 PORT CONVENIENCE: If Yes, tick [] ROTATION NO: H. 19.10.094

NAME OF VESSEL: (former) MW TURANDOT

GRT 55598 LOA 199.10 Type URL

MOVEMENT: from SFA to 1

TUG(S): from 20 to 21

MORNING GANG: from 21 to 20

REMARKS: Purpose of call: Clauses: MG 2 Pilot 1-2

PILOT'S SIGNATURE: [Signature] MASTER'S SIGNATURE: [Signature]

KPA/HMO/PM/016 E.11.1

Committee observation

810. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Pilot log chits, are manually prepared as this serve as concrete documentary evidence supporting the data that is eventually posted in Marine Module and interfaced to SAP for billing which is an internationally recognized best practice for accountability hence the matter is resolved.

21. Manual Processing of Overtime

811. Time management reports availed for audit review indicated that four hundred and eighty- six (486) employees were exempted from clocking in and out to work. This is contrary to Kenya Ports Authority Draft Time Management Procedure Manual, which states that, 'overtime is paid based on hours worked as per the 2018/2019 Collective Bargaining Agreement and Human Resources Manual, 2017 and exemption from clocking is not applicable during overtime'. As a result, the Management manually processed Kshs.78,756,276, being overtime paid to employees exempted from clocking. Further, details of overtime requests, approvals and evidence of actual overtime hours worked were not availed for audit review. Consequently, I am unable to confirm the effectiveness of the internal control in the management of overtime processing.

Management response

812. The Management stated that it has noted the Audit observation regarding the four hundred and eighty- six (486) employees who were exempted from clocking in and out to work. These payments were done in accordance with the Human Resource Manual 2017 and CBA 2018-2019 and not as indicated in the audit report.

813. The exemption from clocking arose because there are some work areas not covered by the biometric clocking system hence staff working during normal shift and overtime in those locations have their time worked accounted for using manual attendance registers maintained by authorized supervisors.

814. Manual time records maintenance for normal shift and overtime also applies in the following work areas;

- Staff working out of station beyond planned working time and employees with disabilities (i.e. visual & limb impairment); and

segregation of duties. Consequently, the effectiveness of the internal control could not be confirmed.

Management response

817. The management stated that:
- i) The Authority does not have a Time Management Department but instead has a Time Management Section which was under Administration Department during the audit period but now falls under the Human Resources Division after the review of the organizational structure.
 - ii) While the audit observation notes that the payment of the said overtime allowance of Kshs.2,441,884,000 and basic salary of Kshs.3,640,045,932 for unionisable employees resulted to a total unapproved expenditure of Kshs.6,081,929,932 during the period of the audit review, the payments were approved and effected in accordance with the Human Resource Manual, 2017 (Section C: Policy on Salaries, Hours of Duty, General Conditions of Service, Sub-Section C. 9 Overtime, Sundry Time and Public Holiday) and the Collective Bargaining Agreement (CBA) covering the period 2018-2019 and 2020 – 2023.
 - iii) Whereas it is true that Management is developing a draft Time Management Policy, the same is still work in progress and could not have been used to support payment of the stated amounts or any other payment. However, Management will make efforts to have the draft policy finalized and approved for implementation.
 - iv) With regard to the concerns that thirteen (13) junior/unionisable employees were given time management roles during the audit period under review, management has since corrected this anomaly and the said staff have been promoted to management positions.

Committee observation

818. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Authority has an existing time management section under the administration department. However, the time management policy was still at the drafting stage.
819. Further, the Committee observed that the overtime payments were approved under the Human Resource Manual and the Collective Bargaining Agreement.

824. The Committee observed that since the Authority has a sufficient ICT policy in place and has acquired a system of tracking inventory of its computing devices, the matter is resolved.

24. Provision of Services Before Issuance of Purchase Orders

825. Audit review of procurement documents availed for audit review indicated that during the year under review the Authority prepared and issued purchase orders of Kshs.12,459,790 to service providers after services had been rendered and invoices received. The Management did not provide details of how the Authority communicated to service providers regarding the need, quantity to be provided and other specifications of the services in absence of the purchase orders. Consequently, the legality and validity of the purchase orders and invoices is in doubt.

Management response

826. The Management stated that during the year under review, the Authority entered a contract with the Maritime & Management Institute of East Africa to provide training services. The terms of the contract guided that payment for the training services be made after receipt of invoices and confirmation by the Human Resources Department regarding the courses conducted viz a viz the actual number of staffs trained. Hence resulting in the issuance of purchase orders after the services had been provided.

Committee observation

827. The Committee observed from the explanation of the Accounting Officer at the time of examination that the contract for providing training services required that payments were to be made after the staff were trained leading to issuance of purchase orders after the service was rendered hence the matter is resolved.

FINANCIAL YEAR 2020/2021

828. The Auditor General gave a qualified opinion audit and raised the following concerns:

25. Operating Revenue

25.1 Loss of Revenue on Waivers

829. The balance includes an amount of Kshs.4,519,604,000 in respect of revenue from storage of containers. The amount is net off waiver of

833. Despite the significance of Clause 5 (d) in the Waiver Policy 2018, which aims to prevent the misuse of the port as a storage facility, waivers are granted after considering a combination of factors aimed at addressing the objectives outlined in both the original 2018 policy and its revised 2021 version.

ii) Designated area for safe keeping Dangerous Cargo

834. The Authority has procedures for handling dangerous cargo. At the Container Terminal, all class 1 and class 5.1 UNNO 1942 (explosives) are not discharged from vessels before inspection. The cargo is thereafter directly delivered and not stacked in the yards.

835. However, in cases where dangerous cargo (other than class 1 and class 5.1) must be staked in port areas, since the Authority has designated the following segregation sites for dangerous cargo stacking.

- Container Terminal 1: Block K Bay 15-27
- Container Terminal 2: Block SL Bay 0-31

Committee observations

836. The Committee observed from the submission of the Accounting Officer at the time of examination that the Accounting officer did not refute the fact that waivers were granted on storage charges for dangerous cargo.

837. Further, the Committee observed that although the management of KPA in their submission stated the reasons why the waivers were granted on storage charges for dangerous cargo, they did not provide sufficient evidence to explain why the waivers were granted to specific customers.

838. The Committee also observed that the management had provided designated areas for handling dangerous cargo.

Committee recommendation

839. The Committee directs that within three (3) months upon the adoption of this report, the Accounting Officer to submit the provide sufficient evidence to explain why the waivers were granted to specific customers to the OAG for verification.

25.2 Non-Collection of Jetty Fees

840. Further the balance includes an amount of kshs.553,000 relating to jetty fees. Review of records provided indicated that there were 82 private commercial facilities (jetties) along the Kenya Coast line as per a survey report

Document Number	Document Date	Amount (Kshs)	Segment	Text
9037251	1/29/2021	-15,650.00	ICDK	Part of January 2021 revenue collections-Kisumu pier
9037267	2/16/2021	-16,432.50	ICDK	Part of February 2021 collections
9037409	3/13/2021	-36,300.00	ICDK	Part of March 2021 collections KSM pier
9037410	3/13/2021	-14,254.50	ICDK	Part of March 2021 collections KSM pier
9037419	3/16/2021	-2,193.00	ICDK	Part of March 2021 collections KSM pier
9037445	3/31/2021	-71,350.00	ICDK	Part of March 2021 collections KSM pier
		-552,385.00		

843. During the year under review, the Authority sent demand notes totaling Kshs 38,071,050 to sixty-seven (67) of the facilities for jetty fees as required by Clauses 9.1 and 9.2 of the Authority's tariffs. However, sixty (60) of the facilities with a total fee demand of Kshs 37,542,585 did not respond and the same was not billed.

844. It is significant to point out that, FY 2020/21 was the climax of the Covid-19 pandemic period. Some staff were affected and could not carry out their duties. This seriously slowed down the functions. The Government restriction on movement also impacted operations of Jetties and boat operators. Most of the clients could not be traced or reached, affecting the revenue collection for the period. Despite the challenges, the Authority was able to bill and collect revenue from jetties and boat operators of Kshs 4,582,669.50.

845. The revenue that was not recognized in the books was because IFRS 15 requirements on revenue recognition could not be met. IFRS 15 foundation for revenue recognition is contract creation. The process of contract creation requires that:

- i) The parties to the contract have approved the contract.
- ii) Each party's rights in relation to the goods or services to be transferred can be identified.

v) The post Covid recovery is slow.

850. The Authority is guided by the Kenya Ports Authority Act. The mandate of the Authority was expanded to include inland water ways in November 2014. The inland waterways managed by the Authority were transferred to the Authority from Kenya Railways through legal notice number 22 of 4th April 2012.

851. The inland water ways transferred to KPA as detailed in the legal notice include:

- i) Kisumu Port
- ii) Homabay Pier
- iii) Kendu Bay Pier
- iv) Asembo Pier
- v) Mohuru Bay Pier
- vi) Luanda K'otieno, Pier, Mbita
- vii) Karungu Pier
- viii) Sindo Point
- ix) Mfangano Pier

852. All piers with the exception of Kisumu Port are not operational as they are in a dilapidated state. The tariff applicable at the Kisumu Port is the Kenya Railways tariff until when the new proposed KPA tariff will be approved. The piers are yet to be incorporated in the Authority's books of accounts as assets because the titles have not been transferred to the Authority.

Committee observations

853. The Committee observed from the submissions of the Accounting Officer during the examination that the management faced challenges in collecting the jetty fees due to small boat operators' nomadic movements, disputes about the new tariffs and the COVID 19 pandemic.

854. The Committee also observed that currently the management is collaborating with other government agencies, e.g., KFS, Kenya Coast Guards, among others, to ensure enforcement in the collection of the fees.

Committee recommendation

855. The Committee recommends that within three (3) months upon adoption of this report, the Accounting Officer should, in collaboration with other

goes through a review–approval system to ensure accuracy, correctness and merit.

861. The dispute management system illustrates in detail reasons for issuing credit notes. The Authority has a continuous training program for billers and operations staff to equip them with Knowledge of the tariff, tariff application and operational procedures. This is aimed at reducing wrong data capture at both operational and billing levels enhancing billing efficiency.

Committee observations

862. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had an automated system, and during the time of the audit, the credit note entries were referenced to the original memo. Further, the management had trained the officers on billing and operational procedures.

863. The Committee observed that since the management had automated the dispute management module, the matter is resolved.

26 Other Income

864. As disclosed in Note 7 to the financial statements, the statement of profit or loss and other comprehensive income for the year ended 30 June,2021 reflects other income of Kshs.720,475,000. The following unsatisfactory observations were made:

26.1 Unconfirmed Income from Rental Properties Without Lease Agreement

865. The balance includes an amount of Kshs. 221,263,000 in respect of rent and rates receivables. However, review of documents provided by management indicated that thirty (30) businesses and institution with premises at the Authority Mombasa Port precincts were not paying rent and did not have lease agreements with the Authority. Another five (5) businesses whose lease agreement were not provided for audit, had been closed with the tenants vacating the premises without settling undetermined amount of outstanding rent. However, the entities were issued with documents (port passes) which allows the staff and employees of the institutions and businesses access to Mombasa Ports. This is a clear indication that the Authority lost undetermined rental revenue chargeable to the occupants/users of the said premises.

NAME	CONTRACT NUMBER	COMMENT
		tenant's office equipment awaiting payment of the rent arrears.
Trademark East Africa	No contract	New lease executed on 5 th October 2022.
Kenya Coast Guard Service	No contract	Lease formalization in progress
Marajani Communications Tours & Ass	120000722	Lease renewal in progress
Blue Cat Port Services	120000661	Lease renewal in progress
Ruman Ship Contractors Limited	120000543	Lease renewal in progress
Bidu General Agencies	120000705	Lease expired and tenant vacated the premises
Pharmacy & Poisons Board	No contract	Rent arrears are recently cleared. Renewal of lease in progress
Uganda Revenue Authority	No contract	Renewal of lease in progress
Joseph Mwalukuku	No contract	Court case dismissed and notice issued to the tenants for the new applicable rent which will inform execution of a new lease.
Edith M. Mwangeka	No contract	Court case dismissed and notice issued to the tenants for the new applicable rent which will inform execution of a new lease.
Davis Mwangeka (Police Canteen)	No contract	Ongoing Court Case.
Snack Bar (Jane A. Ochieng)	120000285	Court case dismissed for want of prosecution and notice issued for eviction of tenant.
Elizabeth Chege	120000672	Rent arrears recently cleared and letter of offer issued. Lease renewal in progress.

Committee observations

867. The Committee observed at the time of examination that the management did not refute the fact that there were some tenants who did not have lease agreements.
868. Further, the Committee observed that the management provided a schedule of the tenants that entailed terminated leases, renewed leases, rent arrears, evicted tenants, those with ongoing court cases, and tenants that had abandoned their sites.
869. The Committee also observed that passes for staff who were no longer operating within the Port area had been disabled.
870. The Committee observes that the matter is unresolved.

26.2 Undercharging of Rent for Housed Staff

871. Included also under Note 7 to the financial statements is an amount of Kshs. 115,681,000 in respect of recovery from housed employees. Audit review of the rent charged and rent chargeable as per the Authority Market survey indicated that the housed employees were undercharged by about Kshs. 90,160,200 during the year under review. Further records provided for audit indicated that a 7% increment was implemented in September 2020 with the intended gradual increment to match the market rates. However, management had not revised the rent upwards as of December 2021. In addition, the Authority was not paying fringe benefits to KRA for provision of houses to employees at discounted rates as require by Section 21B of the income Tax Act Cap 470. In the circumstances, the accuracy and completeness of rent from housed employees of Kshs. 336,944,000 for the year ended 30 June 2021 could not be confirmed.

Management Response

872. The Authority submitted that;
- i) Following the rent assessment that was carried on all the Authority's housing estates in 2019, rent for the housing units was reviewed upwards by 7% w.e.f. September 2020, a partial implementation that was influenced by the inflation factor, the need to have the houses renovated and a new rent assessment carried out.
 - ii) Management has now completed the new rent assessment on all KPA staff houses and the review of the commercial rent recovery with the possibility of gradual implementation to attain the required market level based on

employees. Management did not provide for audit review, details of specific duties and evidence of work allocation to justify the request and approvals for overtime by the supervises. Further, overtime records provided for audit review indicated that management approved and paid an amount of Kshs. 59,142,351 in respect of overtime allowance to employees on training grades. This is not only to paragraph C.9(f) of the KPA HR Manual 2017 which prohibits payment to this category of employees. In the circumstances, the regularity and propriety of overpayment of Kshs. 563,861,340 in respect of the overtime allowances and training could not be confirmed.

Management Response

877. The management stated that the Authority was experiencing staff shortages while at the same time there were various emerging business needs namely:

- (i) the opening of the second container terminal;
- (ii) the expansion of the ICD – Nairobi;
- (iii) opening of ICD – Naivasha;
- (iv) launching of the Lamu Port; and
- (v) the Standard Gauge Railway (SGR).

878. In view of the foregoing, there was immense need to increase the manning levels at operational areas within the Authority. This could not be achieved because of a circular letter issued by the Secretary of the State Corporations Advisory Committee (SCAC) letter which froze the filling of all vacant positions until such a time that the staff establishment is considered and approved.

879. Consequently, the Authority had to authorize the staff to work overtime beyond the set overtime hours of thirty percent (30%) enhanced time of the normal monthly hours for operational employees and twenty percent (20%) for administrative/non-operational employees. Therefore, the expenditure of Kshs 879,764,063 in excess overtime allowances paid during the audit period was inevitable for the smooth running of port operations and to meet business/customers' demands.

880. Further, employees on training grades were paid overtime allowances due to exigency of services caused by shortage of staff arising from:

- 1) The expansion of port services;
 - 1) Operationalization of the first phase of the 2nd Container Terminal
 - 2) Standard Gauge Railway (SGR),
 - 3) expansion of the Inland Container Depot (ICD) Nairobi and Naivasha

the extended contracts. However, Management did not provide evidence to show that assets valued at Kshs.13,011,844,710 acquired during the two years were insured and therefore were exposed to loss in case of a peril.

886. Further, disclosed in the financial statements is a transfer of assets with a net book value of Kshs.1,670,405,000 to Bandari Maritime Academy. The assets were included among the assets insured by the Authority. The extended policies also included policies covered Kenya Ports Authority's pension scheme assets and liability of unknown value. In both situations, the Authority did not have insurable interest in the assets, thus could not be indemnified in case of loss.

Management Response.

887. The management stated that—

i) Extension of Contract.

888. Extension of contract for insurance services was necessitated by the fact that the previous insurance tender for 2017-2019 had been challenged in the High Court Judicial Review No. 03 of 2020 and the matter took a considerable period before final determination. Therefore, KPA Management extended the contract under the same terms and conditions as detailed in the memo dated 27th October 2020.

ii) Insurance of assets valued at Kshs. 13,011.844,710

889. During the period FY 2020/2021 and FY 2019/2020, the Authority had acquired additional assets of Kshs. 12,102,990,000 and Kshs. 6,063,771,000 respectively. However, assets worth Kshs.5,154,916,929 were insured in respect of additional assets. This is because during the same period, there was disposal of assets worth Kshs. 77,682,351.97 giving a net balance of Kshs. 12,025,307,512. Further breakdown of this amount relates to addition of assets per class. It is evident that the costs of these assets mainly relate to concrete works and intangible assets which are not insured since the risks involved are minimal. The assets valued at **Kshs.8,760,017,158.87** and **Kshs. 205,331,536.21** respectively relates to concrete works and intangible assets which are not insured in. From this explanation, it is therefore clear that the authority's assets were not exposed to any insurable risks for the period under review.

iii) Bandari Maritime Academy assets insured.

890. Bandari Maritime Academy was established through an executive order vide legal Notice No. 233 dated 28th November 2018. The implementation of

overriding the mandate of the Authority's Accounting Officer as provided under Section 68 of the Public Finance Management Act, 2012. Further, the payment made by the Authority were Authorized and approved by the Ministry of Public Works officers without the supporting measured bills of quantities.

894. Physical verification done in the month of December 2021 revealed that rehabilitation of Mtangawanda Jetty was complete, with the contractor having left the site. However, there were cracks on the jetty flooring and stairs while a section of the Jetty had collapsed/caved in, thereby exposing reinforcement bars.
895. In the circumstances, the regularity, accuracy and completeness of corporate social responsibility expenses of Kshs.631,017,089 could not be confirmed.

Management Response

896. The management stated that the jetties were being rehabilitated / reconstructed collaboratively by the State Department of Public Works and the Authority to ensure safety of pedestrians and to promote socio-economic activities. The State Department of Public Works provided a budget of KES. 124 million whereas the Authority was requested by the Government to assist in funding the CSR project to the tune of 474.1 million vide the National Treasury's letter Ref. RES 1096/18/01(15) of 24th September 2018 to MOT&I and that from the Ministry of Transport and Infrastructure to KPA. The request for funding the CSR project was tabled and approved by the KPA Board at its 106th Meeting held on 22nd January 2019.
897. The State Department of Public Works had the responsibility of procurement, supervision and management of the CSR projects while the Authority was expected to maintain the jetties once works were completed. The funding assistance provided by the Authority was in terms of making payments directly to the various contractors awarded contracts to rehabilitate the jetties based on certified measured works by technically competent officers of the State Department of Public Works. The payments highlighted pertain to the period under audit.
898. At the time of audit, the rehabilitation of Mtangawanda Jetty works had not been completed and handed over but the contract had been terminated by State Department of Public Works due to non-performance by the contractor. The contractor resumed works after negotiation with the Project

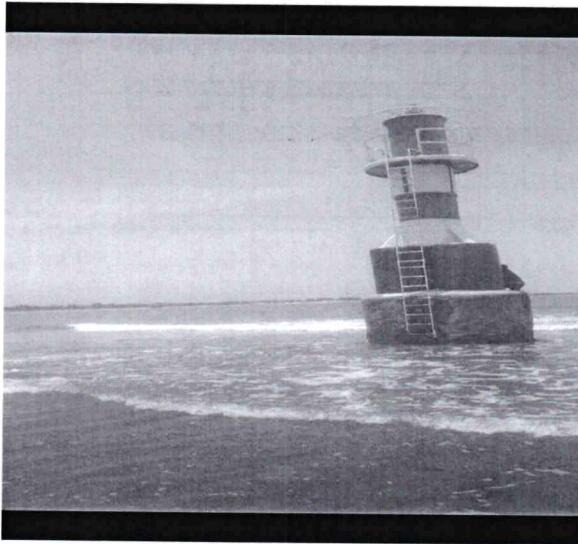
of actual works done in comparison to the previous existing installations for the items were not provided for audit review.

Management Response

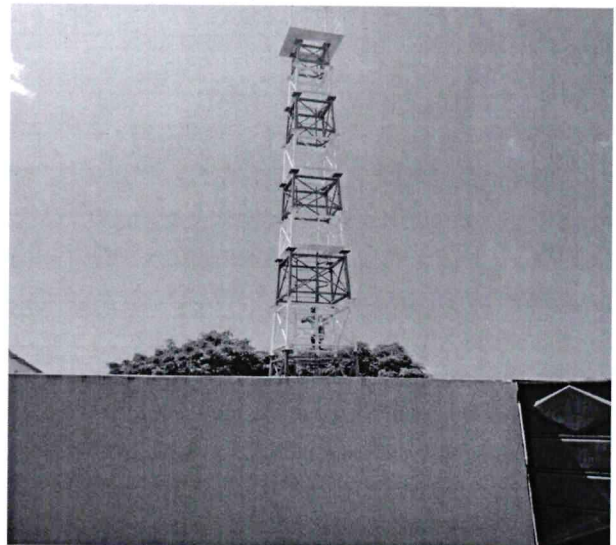
923. The management stated that the works covered under the contract were for the demolition, installation and repairs of navigation masts and related civil works at Malindi, Kipini and Likoni as per the BOQ. In respect of Malindi and Likoni works: -

- (i) Malindi – The Malindi Front and Rear Masts are fibre reinforced. The executed works on these masts included sealing of cracks and painting using marine paint. Painting of all masts both steel and fibre was contained in item 2.07 of the Bills of Quantities.
- (ii) Likoni – Rehabilitation and reconstruction of all the three masts in Likoni were covered under the contract. under item 2.03, 2.04 & 2.07 of the BOQ. A site visit to Likoni involving the technical staff and the Auditors was deemed fit and the same took place on Tuesday the 13th of February 2024 and clarification made on the nature of work done as per the BOQ.

1. Malindi Navigational Aids

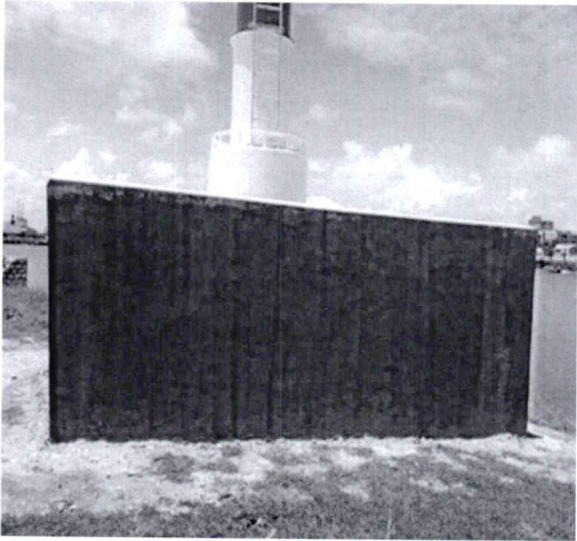
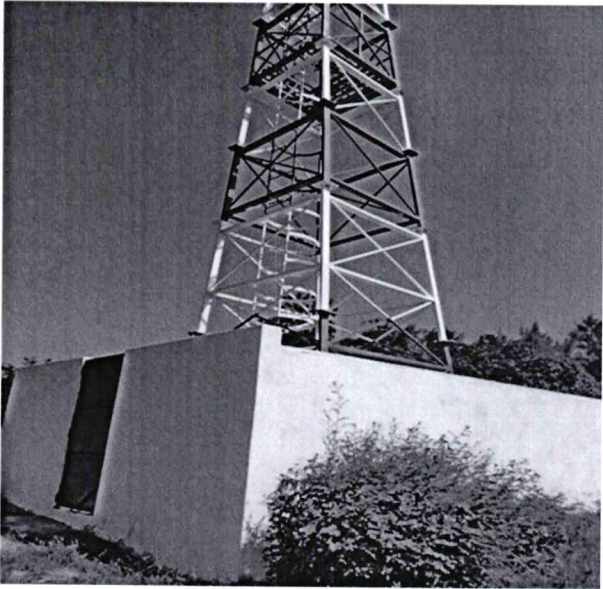


(i) Maintained Malindi front leading Light



(ii) Maintained Vasco Da Gama Light House

Kipini light house mast



bidder did not include in the quotation a detailed schedule of spares to be supplied.

Management Response

910. Section 3(h) of the Public Procurement and Asset Disposal Act (PPDA) 2015 requires that procurements by public entities adhere to the guiding principles of maximizing economy and value for money. The Authority invited bids from the only two known dealers of Caterpillar spares at the time having been contracted earlier for the supply of similar goods. The tender was awarded to the lowest evaluated bidder having quoted Kshs 23,191,300 in accordance with section 86 of the PPADA 2015. The contract provides confirmation from Caterpillar that the awarded vendor is their appointed distributor and dealer of the product in Kenya. Detailed schedule of spares to be supplied is also included.

Committee observation

911. The Committee observed at the time of examination that the contract was awarded to a vendor who is an appointed distributor and dealer of the Caterpillar product, hence the matter is resolved.

29.3 Unsupported Expenditure on Caretaker Service Providers

912. In addition, the balance includes an expenditure of Kshs.584,194,000 in respect of operational/running supplies, out of which an amount of Kshs.12,420,000 relates to payments made to two caretaker service providers at dockyard and at terminal engineering sections. Records provided for audit indicated that the service providers through a letter to the head of administration requested for additional scope of work at the dockyard area. Further, the service providers issued the Authority with invoices totaling to Kshs.11,340,000 in the month of April, 2021 for services rendered for a period of twenty-one (21) months.

913. However, no documentary evidence was provided to confirm that the service was procured in line with Section 91(1) of the Public Procurement and Asset Disposal Act, 2015 which states that, "open tendering shall be the preferred procurement method for procurement of goods, works and services." Further, a signed contract or a local purchase order for the service was not produced for audit verification.

Service. However, no reports of work done were produced to support utilization of the advance payments.

- ii. Further, included in the amount of Kshs.71,767,166 is Kshs.1,000,000 which was released without evidence of budgetary provision detailing how the funds were to be utilized.
- iii. The amount of Kshs.71,767,166 also includes daily subsistence allowances of Kshs.15,317,200 for supervisors and senior staff of NYS for which evidence of utilization was provided for audit verification.
- iv. It was noted during physical verification done in the month of December, 2021 that already existing works valued at Kshs.40,456,257 were demolished. The works were claimed to have been on land delineated by the Kenya Shipyards Limited, a Company under the Ministry of Defense.

921. In the circumstances, the regularity, completeness and accuracy of the expenditure of Kshs.167,174,653 incurred on repairs of port infrastructure could not be confirmed.

Management Response

922. The management stated that—
- i. The National Youth Service (NYS) was engaged by the Government to undertake rehabilitation of the Kisumu port and port infrastructure around Lake Victoria with funding from the Authority.
 - ii. NYS provided schedules (Budgets) of works to be undertaken to the Authority for funding by the Authority.
 - iii. The breakdown of expenditure of Kshs 71,767,166 is provided below:

Document No	Doc. Date	Amount (Kshs)	Text
1900290519	06.10.2020	15,913,416.23	Rehabilitation of Kisumu and Kendu Bay Ports
1900283997	10.02.2020	1,000,000.00	Clearing encroaching water hyacinth at Kisumu Port
1900290685	07.10.2019	5,225,516.00	Back filling exercise at Kisumu Port
1900290690	02.10.2019	8,190,155.45	Rehabilitation of Port facilities around Lake Victoria
1900290682	16.08.2019	10,000,000.00	Clearing works at Kisumu, Homabay, Mbita, Asembo Bay

- i. The Authority has a multiyear capital expenditure project budget of kshs. 500,000,000 for the FY 2019/2020. Following an environmental impact study, the management advertised provision of the works through a tender in April 2020. However, the tender was non-responsive and therefore cancelled
- ii. The tender was re-advertised in June 2020 which was also cancelled due to non- responsiveness upon evaluation Committees recommendation.
- iii. The CS Ministry of Defence (MOD) notified the CS Ministry of Transport Infrastructure, Housing Urban Development and Public works that a Presidential directive instructed that dredging of Mbita and Kisumu Ports be expediated to enhance water transport in Lake Victoria Region. Further, the letter indicated that the Ministry of Defence had conducted a reconnaissance and established the scope of work at estimated cost of Kshs. 260,000,000. Through the letter, it was proposed that MOD undertakes the work as a security project to fast track implementation.
- iv. The authority vide letter reference MCS/4/7/2009 dated 5 January 2020 requested the CS – National Treasury for Authority to Transfer funds for the estimated project cost of Kshs. 260,000,000 to the National Treasury for reallocation to Ministry of Defence for implementation. The same was approved and was followed by transfer of funds on 13 January 2021.
- v. However, the MOD had not provided details of the extent of completion and utilization of the amount of Kshs.260,000,000 as at the time of this audit.

927. In the circumstances, the existence, completeness and accuracy of the amount of Kshs.260,000,000 treated as work in progress could not be confirmed.

Management Response

928. The management stated that the Authority transferred Kshs 260 million for dredging to the National Treasury for reallocation to the Ministry of Defence (MOD) following a Cabinet directive.

929. The Authority was however not involved in any way in the supervision or monitoring of the progress of the dredging works. Information regarding the completion and utilization of the amount of Kshs 260 million can only be obtained from MOD who were the implementing agency for the works.

32. Property, Plant and Equipment

32.1 Irregular Capitalization of and Depreciation of Non-Existent Assets

936. The balance includes a balance of Kshs.117,582,946,000 in respect to basic constructions out of which an amount of Kshs.27,156,080 relates to net book value of fences around two parcels of land in Kilifi. However, during physical verification of assets in the month of December, 2021, it was noted that the fences did not exist on the said properties. The value of the fences has been carried in the assets register since capitalization in February, 2017.

Management Response

937. The management stated that when capitalization was done, the fence was existing and was later demolished by squatters invading the land. The same was impaired on 30th June 2022 to recognize the loss in the books vide doc. 9055932 and 9055934. The Authority shall seek the appropriate approvals for write off once the investigations are concluded.

Data Entry View									
Document Number	9055932		Company Code	1000		Fiscal Year	2022		
Document Date	30.06.2022		Posting Date	30.06.2022		Period	12		
Reference	TAKAUNGU B FENCE		Cross-Comp.No.						
Currency	KES		Texts exist	<input type="checkbox"/>		Ledger Group			

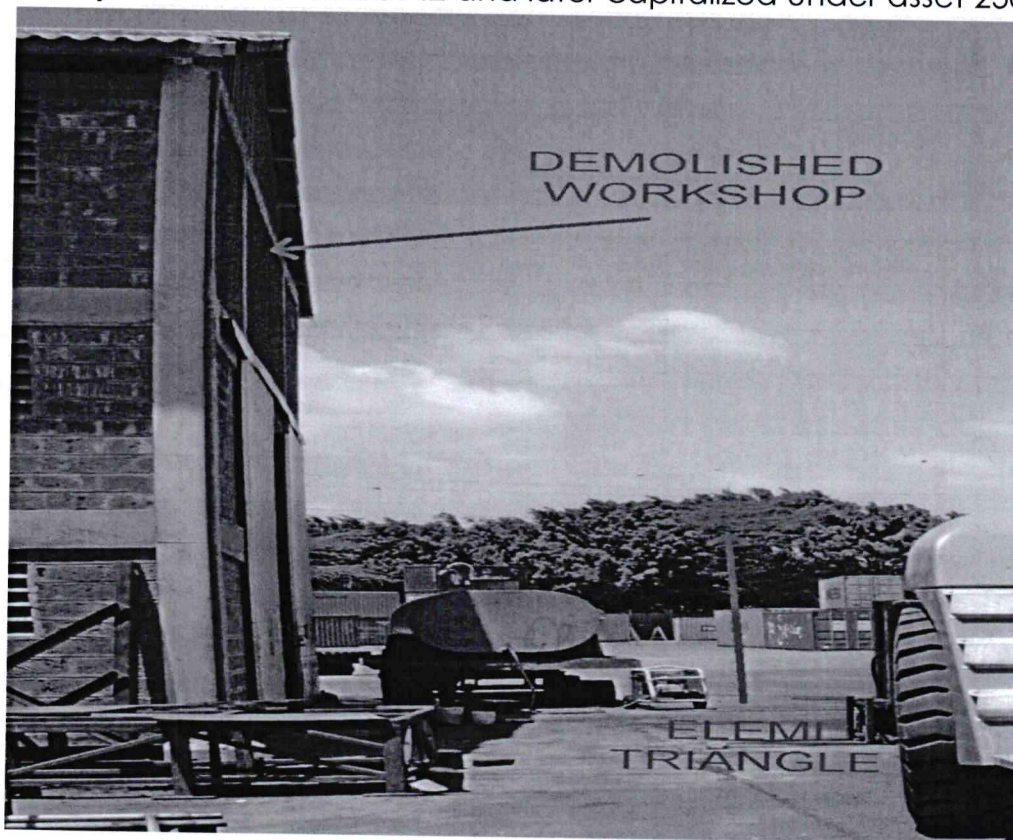
C...	Itm	PK	Account	Description	Amount	Curr.	Tx	Amount in LC
10...	1	40	600784	IMPAIRMENT LOSS/(G)	9,444,014.21	KES		9,444,014.21
	2	50	500208	IMPAIRMENT OF PROPET	9,444,014.21-	KES		9,444,014.21-

Data Entry View									
Document Number	9055934		Company Code	1000		Fiscal Year	2022		
Document Date	30.06.2022		Posting Date	30.06.2022		Period	12		
Reference	TAKAUNGU A FENCE		Cross-Comp.No.						
Currency	KES		Texts exist	<input type="checkbox"/>		Ledger Group			

C...	Itm	PK	Account	Description	Amount	Curr.	Tx	Amount in LC
10...	1	40	600784	IMPAIRMENT LOSS/(G)	15,969,428.29	KES		15,969,428.29
	2	50	500208	IMPAIRMENT OF PROPET	15,969,428.29-	KES		15,969,428.29-

G/L Account	104001	WIP/BASIC CONSTRUCTION
Company Code	1000	Kenya Ports Authority
Doc. no.	1161631	
Asset	10200142	0 CONCRETE WORKS FROM GL 600261
Line Item 2 / Credit asset / 75 Invoice receipt for / 159		
Amount	92,140,895.50	KES
W/o Cash Dscnt		
Additional Details		
Asset Val. Date	15.06.2021	
Asset	10200142	0
Cost Center		Order
		More
Assignment		
Text	Capt.of concrete works at shed 1-4500083236	Long text

It was first adjusted to WIP 10200142 and later capitalized under asset 250099.



Committee observation

941. The Committee observed at the time of examination that the issue was on capitalization and was addressed by the management. Further, the works involved the clearing of debris and demolition of hard surfaces, hence the matter is resolved.

32.3 Concrete Works at Makongeni

942. In addition, the balance includes work in progress balance of Kshs.93,568,938,000, out of which an amount of Kshs.313,098,245 relates to concrete works at Makongeni Inland Container Depot. Information and records provided for audit indicated that the Authority was not in possession of the land, did not have ownership documents for the same or was it utilizing the asset.

943. In the circumstances, the ownership and rights and obligations of concrete works valued at Kshs.313,098,245 could not be confirmed.

Management Response

944. Administrative action was taken against the culpable staff. The works were investigated by DCI and the matter is before the courts.

Committee observation

945. The Committee observed that there is an active case against the employees in court.

Committee recommendation

946. The Committee recommends that pursuant to Standing Order 89, the issue is *subjudice* since the matter is before the court.

32.4 Supply and Commissioning of Forklifts

947. The balance also includes an amount of Kshs.31,046,475,000 in respect of equipment, motor vehicles and furniture. Included in the balance is an amount of Kshs.58,612,668 in respect of three (3) sixteen-ton and two (2) five-ton forklifts. Records provided for audit indicated that the Management advertised for supply and commissioning of forklifts vide a tender on 9 July, 2019. The tender was processed and awarded to one local supplier at a total bid price of Kshs.67,680,000. However, the following anomalies were noted:

948. A physical inspection of the equipment and spares revealed the following matter:
- i. The equipment had CAT logo which was not similar to the known CAT equipment logo fitted on the equipment and was peeling off.
 - ii. The equipment was fitted with Cummins engine which is not a brand used by Caterpillar on their equipment.
 - iii. All the spares were labelled in Chinese language. However, the bidder had indicated that the spares would be supplied from European countries.
 - iv. The spares had not been captured by the stores department staff due to difficulty in identification and matching with existing spares and as such the same had not been utilized.
949. In the circumstances, the authenticity and value of the forklifts, and validity and accuracy of the expenditure of Kshs.58,612,668 incurred on the fork-lifts could not be confirmed.

Management Response

950. The management stated that whereas the performance bond was to expire on 11th March 2020, following the outbreak of COVID 19 there were disruptions in the global supply chains. Consequently, the Government of Kenya vide presidential directive and gazette notice issued a restriction of movement and related measures to curb the spread of the pandemic. Further, the contractor, vide their correspondence dated 28th August 2020 expressed their inability to proceed with delivery timelines as envisaged due to the effects of Covid 19. The lockdown in the Country by the Government as well as disruptions in global supply chain as a result of the Pandemic was a form of force majeure as spelt out in Clause 26 of the tender document (which formed the contract). This provided that in case of force majeure, the contractor shall continue to perform his obligations under the contract as far as is reasonably practical and shall seek all alternative reasonable means of performance not prevented by the force majeure event. Bond renewal was not possible due to covid containment measures then.
951. Despite the foregoing, the Contractor performed the contract reasonably and delivered the goods on 2nd November 2020, within reasonable time following the lifting of the Government restrictions vide presidential directive issued on 20th October 2020. Therefore, there was no loss of funds as result of

of origin was not a requirement by the authority. However, the equipment is still under warranty and vide correspondence 28th June 2022 the Authority requested the Contractor to provide an English translation. Further note, manufacturing companies often acquire some assembling parts from China or the parts producing companies outside Europe.

956. The supplier was requested to arrange and provide the list of spares in English which he later did and the stores ensured that the descriptions of each of the spares were inscribed on the packages for ease of identification.

Committee observation

957. The Committee observed at the time of examination that although the forklift was supplied, there was no evidence adduced by the management to prove that the product supplied was from Caterpillar.

Committee recommendation

958. The Committee directs that within three (3) months upon the adoption of this report, the Accounting Officer of KPA to submit the quotations for the supply of the forklifts to the OAG for verification.

33 Accrued Liability for Defined Contribution (DC)/Defined Benefit Scheme (DB)

959. The statement of financial position reflects retirement benefit on current liability of Kshs.3,576,200,000 and current liability of Kshs.535,200,000 all totaling to Kshs.4,111,400,000. Audit review of the Actuarial valuation report of the scheme indicates a total of Kshs. 3,490 active members under the defined benefit scheme (DB), out of whom 2,675 are members who moved to defined contribution scheme (DC). Although a portion of their pension benefit was still held in defined benefit scheme. However, the actuarial valuation report indicated that the valuation of assets was based on 3,490 members instead of 795 members under DB scheme, contrary to the National Treasury Circular Ref No. EPN171/07 Vol.Q(94) dated 16 June 2011 which directed the Authority not to grant evaluation to those who choose to move to the DC schemes or those who had to move to the DC scheme because they were below 45 years. Evaluation may have materially overstated by inclusion of Outstanding define benefits portion retained when the 2,675 members moved to the defined contribution scheme. In the circumstances, the accuracy and fair

accrued benefits to the DC Scheme as at 31 December 2011 when the decision was made. The DB Scheme is currently holding accrued liability for members who joined the DC Scheme while members who remained in the DB Scheme continue to accrue future benefits from 31 December 2012. Members who are in both DC scheme and DB scheme are only accruing future benefits effective 01 January 2013 from the DC scheme. So, there is no double benefit for those members.

965. Based on the Treasury circular No. 18 of 2010 and RBA Prudential Guideline 001, actuarial valuation was done for 3,490 members (2,675 who are in both DB & DC Schemes while 795 members were in only in DB Scheme). The DB Scheme closure structure and the DC Scheme formation structure were all approved by the Retirement Benefits Authority and National Treasury.

Committee observations

966. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had anchored the operations of the retirement benefits scheme on the prudential guidelines that stated the method of handling deficits that arose from the migration of members from the DB to the DC scheme and captured the deficit in their financial statements.

967. The Committee further noted that the management obtained approvals from the National Treasury and the Retirement Benefits Authority to convert from DB schemes to DC schemes.

968. The committee observes that since the Authority obtained approvals from the National Treasury and the Retirement Benefits Authority with regards to migration of members from the Defined Benefits to Defined Contribution Scheme, the matter stands resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

34 Non-Compliance with the Public Service Commission Human Resource Policies and Procedures Manual, 2016

969. Review of the payroll data provided for audit review indicated that as at 30 June, 2021, the Authority had paid basic salary to 6,519 employees. However, analysis of the payroll records revealed that out of the 6,519 employees, 415 employees committed their salary beyond the two thirds of the basic, contrary to Paragraph C.1(3) of Public Service Commission Human Resource Policy and Procedures Manual, 2016.

Committee recommendation

976. The Committee reprimands the Accounting Officer for breaching section C.1(3) of the Public Service Commission Human Resource Policies and Procedures Manual, 2016 and section 19(3) of the Employment Act, Cap 226 on the a-third basic rule and directs that the management should henceforth ensure that officers do not overcommit more than a third of their salaries.

35 Non-Compliance with the National Cohesion and Integration Act, 2008

977. Review of establishment indicated that the Authority had a total of 6,519 employees as at 30 June, 2021, out of whom 2,258 (35%) were from one community. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that, "No public establishment shall have more than one third of its staff from the same ethnic community."

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

Management Response

979. The management stated that the observations have been noted and added that the Authority is currently renewing efforts to ensure compliance with Section 7(2) of the National Cohesion and Integration Act, 2008. From the ethnic composition analysis of the Authority's employees tabulated below, the Mijikenda have for the past 3 years reduced from 35.69% (2019) to 34.44% (2022) while employees from the Taita, Teso, Pokomo, Kenyan Somali, Orma and Bajuni tribes have increased.

No.	Ethnic Group	2019	2019%	2020	2020%	2021	2021%	2022	2022%
1	Mijikenda	2,369	35.69%	2,325	34.99%	2,274	35.16%	2,317	34.44%
2	Luhya	503	7.58%	517	7.78%	502	7.76%	510	7.58%
3	Kalenjin	410	6.18%	402	6.05%	389	6.01%	387	5.75%
4	Luo	759	11.43%	764	11.50%	733	11.33%	753	11.19%
5	Kamba	503	7.58%	496	7.46%	479	7.41%	486	7.22%
6	Taita	506	7.62%	510	7.67%	496	7.67%	532	7.91%
7	Taveta	25	0.38%	25	0.38%	23	0.36%	22	0.33%
8	Kikuyu	444	6.69%	483	7.27%	471	7.28%	494	7.34%

No.	Ethnic Group	2019	2019%	2020	2020%	2021	2021%	2022	2022%
39	Nyamwezi	2	0.03%	2	0.03%	2	0.03%	2	0.03%
40	Ngazija	0	0.00%	0	0.00%	0	0.00%	0	0.00%
41	Vumba	0	0.00%	0	0.00%	0	0.00%	0	0.00%
42	Ugandan	0	0.00%	0	0.00%	0	0.00%	0	0.00%
43	Rwande se	1	0.02%	1	0.02%	1	0.02%	2	0.03%
44	Burundia n	0	0.00%	0	0.00%	0	0.00%	1	0.01%
45	Mtagan a	1	0.02%	0	0.00%	0	0.00%	0	0.00%
46	Tanzania n	1	0.02%	1	0.02%	1	0.02%	1	0.01%
47	Uganda n	5	0.08%	5	0.08%	5	0.08%	3	0.04%
48	Others	110	1.66%	0	0.00%	0	0.00%	0	0.00%
	Total	6,638		6,645		6,468		6,728	

The Authority is actively increasing its efforts to comply with the Law, as demonstrated by the fact that out of 297 staff recruited in FY 2021/2022, only 36 (12%) were from the Mijikenda Community.

Committee observation

980. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had a number of officers from the minority community employed in the subsequent recruitment process.
981. The Committee observes that since the management has endeavored to comply with the Article 130(2) of the Constitution on the reflection of regional and ethnic diversity in public entities and the National Cohesion and Integration Act, Cap 7N, the matter stands resolved.

Committee observation

987. The Committee observed from the management's explanation that it had not provided documentation to justify an extension of the existing contract.

Committee recommendation

988. The Committee directs that within three (3) months upon the adoption of this report, the Accounting Officer to submit the documents justifying the extension of the contract to the OAG for verification.

37 Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

989. Records provided for audit indicated that the Authority awarded a contract for provision of housekeeping services (preference group) to various service providers in October, 2018 for a period of one year, non-renewable, starting 1 November, 2018 to 31 October, 2019. However, the Authority communicated extension of contracts for an additional period of two years, effective 1 November, 2019. This was done contrary to Section 139(2) of the Public Procurement and Asset Disposal Act, 2015 which states that, 'An accounting officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for the following, which request shall be accompanied by a certificate from the tenderer making a justification for such cost'. This is an indication that the service providers were engaged, operated and were paid for three months without valid contracts.

990. Further, the extension of the contract resulted to an overall incremental cost by Kshs.13,932,353.70 or 200% of the original contract sum, contrary to Section 139(4)(b) and (e) of the Act which states that, 'the quantity variation for goods and services does not exceed fifteen per cent of the original contract quantity.'

991. In addition, the Accounting Officer approved a further extension of nine (9) months following a request through a professional opinion from the Head of Procurement and Supplies.

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

Management Response

993. The management stated that the Authority awarded the tender No. KPA/114/2016-17/ADM for a period of 3 years on 1st August 2017. However, following applications at the High Court and the Public Procurement Administrative Review Board, on similar services advertised at the same time, the Authority decided to sign the contract for 1 year to allow for settlement of

Governance for State Corporations which requires at least one Board member be a financial expert and a bona-fide member of a professional body regulating the accounting profession while the Board had appointed one member to serve in both the Finance and Audit Committee. This contravened the Circular Ref. No. OP/CAB.9/1A dated 11 March, 2020 which prohibits members from serving in both Finance and Audit Committees.

1001. In the circumstances, the effectiveness of the Board could not be confirmed.

Management Response

1002. The management stated that it has no control on the appointment of the Authority's Board of directors. The Chairperson is normally appointed by the President while the board of directors are appointed by the Cabinet secretary. Chapter 1 of Mwongozo Code, clause 1.1 on Appointment, composition & size, point 9 states that "*the chairperson of all SCs shall be appointed by the president and shall at a minimum possess the qualifications, skills and experience...*". In addition, point 10 states that, "*the Board members of SCs shall be appointed by the Cabinet secretary of the parent ministry and shall at a minimum possess the qualifications, skills and experience...*".

Point 14 states that, "*the appointing authority shall ensure that any person appointed to the Board of a SC satisfies the fit and proper requirements*".

Committee observation

1003. The Committee observed that although the management had no powers to appoint member of the Board, the management ought to have sought for advisory from SCAC on the issue.

Committee recommendation

1004. The Committee recommends that the Accounting officer to write to the appointing authorities notifying them on the vacancies and appointment of Board members.

1005. The Committee recommends that appointing authorities should adhere with the State Corporations Act, Cap 446 and the Mwongozo Code of Corporate Governance for state Corporations on appointment of Board members.

Confirmation whether license applicants had valid lease agreements.

1010. At the time the audit was conducted, the licensing procedure did not categorically require the licensing committee to confirm that the applicant has a valid lease. Services that require commercial licenses are spelled out in Clause 19 under General services of the KPA Tariff. Once these service providers get licensed, they are granted KPA Port passes to allow them access the Port to offer their services when required by their customers. Majority of these firms are not permanently based at the Port, except for canteens and Bank ATM's.
1011. As part of continual improvement, the Commercial Licensing Policy (2023) requires production of evidence of a valid lease agreement for businesses housed by the Authority as a prerequisite to licensing.

Committee observation

1012. The Committee observed at the time of examination that the management had approved a Commercial Licensing Policy in March 2023, that resolved the weakness in internal controls regarding business licensing at the port; hence the matter is resolved.

40 Allocated Work Shifts Substitution

1013. The Authority has work schedules/rules, which are implemented by the supervisors that detail work allocation per employee including shifts. These schedules are submitted to the time management office for creation and allocation in SAP. It was however, observed that, the supervisors made 51,914 substitutions (changes in the work rule maintained in the time management system). Out of these substitutions, 35,800 were made either on or after the date the employee started working, which means that the changes were unauthorized. Further, details and justifications for the substitutions were not provided for audit review. Substitution of employees' schedules negates for time management system since the supervisors have the sole discretion on work attendance. This could lead to manipulation of shifts to justify claim for and payment of overtime allowances.
1014. In the circumstances, the effectiveness of the mechanism to ensure and effective work shift substitution is weak and prone to manipulation and abuse.

Attendance system they were retained as operators of the system and were eventually promoted to management level after the Time and Attendance structure was put in place thus correcting the anomaly pointed out in the Auditors report.

Committee observation

1022. The Committee observed that the thirteen (13) junior officers who worked as time clerks were promoted to management level after the Time and Attendance structure was put in place, hence the matter stands resolved.

42 Inventory/Stock Management

1023. Documents produced for audit review indicated that the Authority had inventory valued at Kshs.443,609,000 in various stores. The Authority's store policy of 31 May, 2010 indicated that stock levels for common user items equivalent to three (3) months' consumption were to be maintained, and procurement be done at one month's consumption balance level. However, procurement records provided for audit review indicated that orders were made by raising requisitions to stores as and when there was a request from users. This posed the risk of avoidable stockouts or stockholding costs.

1024. In the circumstances, the effectiveness of the stock management system cannot be confirmed.

Management Response

1025. The management stated that spare parts are requested in the system by Technical Departments as per the store policy and the items ordered are supposed to be used within 3 months.

1026. The Authority also entered into running contracts with vendors for common User items requiring the vendors to stock the items at their premises so that the items are easily sourced at short notice. This reduces the lead time. The materials movements and balances are monitored on real time basis through the Materials Management module in SAP system therefore the incidences of stock outs are minimized. Reports are generated from the system monthly to monitor the movements of items.

and Generator Room property at Lodwar in Turkana County, and Plot L.R No. 9042/26 and No. 28 at Embakasi Village in Nairobi County were not made available for audit verification. Management indicated that the Ministry of Lands and Physical Planning was processing the documents but did not provide their expected date of issue.

Management Response

No.	Location and Description	Status
1	Thirty-one (31) housing units at Nyali, Mombasa	<ul style="list-style-type: none"> <li data-bbox="602 625 1435 785">▪ There are two parcels of land measuring approximately 1.696ha with 36 houses. These parcels were allocated to DCA by the Government of Kenya after the collapse of the East African Community. <li data-bbox="602 810 1435 1129">▪ One parcel is registered in the name of Kenya Revenue Authority (KRA) thus there has been a dispute between KRA and KCAA over ownership. KRA claims MN/1/6230 which they have registered under their name whereas MN/2395 belongs to KCAA. A survey of both parcels was conducted recently by Survey of Kenya and the process of registration of MN/2395 and negotiations over MN/1/6230 is underway. <li data-bbox="602 1155 1435 1276">▪ A formal request for an official search has since been lodged with the Chief Registrar, Land Central Registry, This will enable registration of the undisputed parcel.
2	Bamburi Staff Houses, Mombasa County	<ul style="list-style-type: none"> <li data-bbox="602 1312 1435 1465">▪ KCAA engaged the then Kenya Anti- Corruption Commission and now Ethics and Anti- Corruption Commission (EACC) in 2009 to assist in recovery of KCAA parcels that had been registered in third party names. <li data-bbox="602 1491 1435 1732">▪ Through a Gazette Notice No. 15570 dated 26th November 2010, the Registrar of Titles in Mombasa issued notification of revocation of land titles issued to private developers on parcels of land reserved for public purposes. Among them were 14 parcels of land that were reserved for KCAA.

No.	Location and Description	Status
		<p>the matters that have already been concluded. Only one search certificate was issued on 19th February 2025 on an ongoing matter for plot No. 2408/1/MN.</p> <p>v) There was hesitation in indicating when the search certificates will be ready but the Registrar indicated that they will be issued progressively instead of waiting for all of them at once. The KCAA officers were advised to have someone on ground to constantly follow up.</p> <p>Summary Status</p> <ul style="list-style-type: none"> ▪ Follow ups are being made with the Land Registrar to issue the certificates of search to facilitate processing of titles for the parcels of land that had been concluded in court in favour of the Authority. <p>Way Forward</p> <ul style="list-style-type: none"> ▪ Acquisition of the certificates of search for the seven (7) Parcels for submission to NLC for allocation of parcel to KCAA and subsequent issuance of title. ▪ Follow on the one (1) outstanding decree to enable a search and consequent NLC action. ▪ Hearing of the six (6) matters on the dates set till final conclusion. ▪ Erection of signage in each of the eight (8) parcels currently under KCAA possession indicating that they belong to KCAA.
3	<p>Staff houses in Miritini, Mombasa County</p>	<ul style="list-style-type: none"> ▪ The parcel of land is located in Miritini area of Mombasa West mainland along Mombasa-Nairobi Highway, approximately 10 KM from Mombasa Island. The land measures 2.4 hectares and has 124 residential units of various categories and one canteen. ▪ The estate was constructed by the East African Community (EAC) and allocated to the Customs Department (now Kenya Revenue Authority - KRA),

No.	Location and Description	Status
		<p>Permanent injunction restraining the Plaintiff from transferring, charging or dealing in any other manner in an attempt to defeat KCAA's interest of the original suit parcel; An order directing the Chief Land Registrar to cancel all titles excised out of the original parcel; and An order directing the Chief Land Registrar to rectify and correct the register and issue in KCAA's name all titles excised out of the original parcel L.R No. 39/I/R.</p> <ul style="list-style-type: none"> ▪ The Chief Land Registrar filed a defence dated 17th April, 2020 confirming that parcel L.R. No. 39/I/R has been and still is the property of KCAA, and that the suit land had never been availed for allocation, alienation or offered for sale. ▪ The Plaintiff produced a letter of allotment dated 1st July, 1998 purportedly issued to Markton Bulk Suppliers but it turned out during hearing that the company was registered on 25th March, 2003 which was five (5) years after the letter of allotment was allegedly issued to it. ▪ There's no record of correspondence file for LR. No. 9042/800 and it was not appearing in the Deed Register. The management is also not able to get records for LR. No. 39/I/R from the Lands Registry. The suit came up for defence hearing on 29th January, 2025 but adjourned upon application by the Attorney General. ▪ The entire property is secured the undisputed parcel (57 acres) is registered under KCAA. A legal suit on recovery of the excised portions LR. Nos 9042/638-645 (30acres) is pending determination in Court. Matter is awaiting defense hearing. ▪ The Authority wrote to the Ethics and Anti-Corruption Commission on 24th March 2025 requesting it to investigate the circumstances leading to the illegal subdivisions, to enjoin in the case to support the Authority in the recovery process and to prosecute the perpetrators.

No.	Location and Description	Status
		<ul style="list-style-type: none"> ▪ Engage NLC for purposes of excision of the portion required for upgrading to bitumen standards of Syokimau-Katani Road.
6	Wajir County	<ul style="list-style-type: none"> ▪ The land is approximately 1.158 Ha. A survey of the parcel of land will be conducted in consultation with KFS by Survey of Kenya to ascertain ownership between Kenya Forest Service (KFS) and KCAA.
7	Plot No 405 at Bwagamoyo (Kilifi)	<ul style="list-style-type: none"> ▪ KCAA's predecessor, DCA, purchased this parcel of land (1.423 Ha) from the local community for erection of a flight beacon in Mwakirunge to guide the safe landing of aircraft at Moi International Airport, Mombasa. The Authority has since obtained a title deed
		<ul style="list-style-type: none"> ▪
8	Generator Room Property at Lodwar	<ul style="list-style-type: none"> ▪ The land is approximately 23.22Ha. The Title deed for the land has been obtained by the Authority
9	L.R Nos 9042/26 & 28 at Embakasi Village, Nairobi County	<ul style="list-style-type: none"> ▪ The plot is approximately 0.57212 Ha. A survey has been done and land fenced off by KCAA. ▪ These parcels of land were inherited by DCA (KCAA's predecessor) from East African Common Services Organization. They were initially occupied by the employees of the defunct City Council of Nairobi, but were surrendered and are currently inhabited by KCAA junior staff. ▪ There was dispute as to ownership with the City Council of Nairobi, culminating in High court civil suit No. 185 of 2011, where the City Council conceded ownership to KCAA. A survey was done and land fenced off by KCAA the houses are co-owned between MET and KCAA
10	Ngai Ndeithya Settlement Scheme/161-Miito-Andei	<ul style="list-style-type: none"> ▪ This land contains Aviation equipment (VOR). The property measures about 13 acres and is close to Tsavo National Park. The parcel was vested in KCAA through Gazette Notice No. 173 of 2006 made on 13th October 2006. A survey conducted by survey of Kenya shows

No.	Location and Description	Status
		plan by the County Government of Makueni and the Kenya Wildlife Service. Once this is done, it will facilitate issuance of a title deed to the Authority.
11	Central Stores, Nairobi County	<ul style="list-style-type: none"> ▪ The NLC made recommendation on settlement of the issue pursuant to its letter dated 1st February 2019. The Authority filled a suit challenging NLC jurisdiction over the matter. Subsequently, the Board Resolved to adopt the NLC recommendations. The parties entered into a consent on 14th November, 2024, to implement the NLC recommendation. A valuation was jointly undertaken by NLC and Ministry of Lands, Public Works, Housing & Urban Development. The Chairman NLC via letter reference NLC/1/28/6 dated 6th March, 2025 forwarded the Valuation Report (of the valuation carried out to determine the market value as per terms of the consent and applicable valuation standards of the leasehold interest free of any encumbrances in L.R 209/14372 as on 25th February, 2024) to KCAA for necessary action. ▪ KCAA is already in receipt of Kshs. 355,000,000.00 (read: Kenya Shillings Three Hundred and Fifty-Five Million) being the returned market value as per NLC valuation and the KCAA Board of Directors has since resolved to accept the payment as full and final restitution.
12	Property L.R No.28192 at Lokichogio	<ul style="list-style-type: none"> ▪ A survey of the parcel of land will be conducted in consultation with Kenya Forest Service (KFS) by Survey of Kenya to ascertain ownership between KFS and KCAA.

Committee Observation

1033. At the time of examination, the Committee noted the Authority was in various stages of recovering land as detailed below: -

1) Thirty-one housing units at Nyali, Mombasa:

Dispute with Kenya Revenue Authority (KRA) over land ownership, survey conducted, and registration of undisputed parcels is underway. KCAA and KRA are in negotiations over ownership of the disputed parcel.

7) **Bwagamoyo, Kilifi:**

Title deeds have been obtained by KCAA.

8) **Lodwar:**

Title deeds have been obtained by KCAA.

9) **L.R No. 9042/26 & 28 Embakasi Village, Nairobi:**

Survey done, land fenced off, and a High Court civil suit concluded with the City Council of Nairobi conceding ownership to KCAA.

10) **Ngai Ndethya Settlement Scheme/161, Mtito- Andei:**

A survey shows KCAA owns approximately 2.817 acres, not 13 acres. The entire scheme is registered with the Kenya Wildlife Service. KCAA is monitoring negotiations between Makueni County and Kenya Wildlife Service to facilitate title deed issuance. KCAA was keeping track on the progress of the development and gazettelement of the management plan by the County government of Makueni and the Kenya Wildlife Service.

11) **Central Stores, Nairobi:**

KCAA's Board of Directors accepted and received Ksh355 million as final settlement for the compensation of the property. This was after joint valuation by National Land Commission and the Ministry of Public Works, Housing & Urban Development.

12) **LR No. 28192, Lokichogio:**

Survey of the land will be conducted in consultation with the Kenya Forest Service to ascertain the ownership between the parties.

1034. The Committee observed that the management of KCAA had made progress in recovering parcels of land and were working with the Ethics and Anti-Corruption Commission (EACC) and National Land Commission (NLC) to find missing documents and process titles.

Committee Recommendation

1035. The Committee directs that within six (6) months upon the adoption of this report, the accounting officer of KCAA to process the title for the undisputed 59 acres of the Central Transmitting Station, Mlolongo, and subsequently

in restitution of the land in line with Article 40(6) of the Constitution and Section 5 of the National Land Commission Act, 2012. However, no records were provided to confirm whether the investigation was conducted, or whether other remedial action was taken, on the matter. In view of these issues, I have not been able to confirm the accuracy, completeness and ownership by the Authority of the Property, Plant and Equipment balance totaling Ksh18,028,594,085 as at 30 June, 2019.

Management Response

No.	Location and Description	Status
1	Thirty-one (31) housing units at Nyali, Mombasa	<ul style="list-style-type: none"> ▪ There are two parcels of land measuring approximately 1.696ha with 36 houses. These parcels were allocated to DCA by the Government of Kenya after the collapse of the East African Community. ▪ One parcel is registered in the name of Kenya Revenue Authority (KRA) thus there has been a dispute between KRA and KCAA over ownership. KRA claims MN/1/6230 which they have registered under their name whereas MN/2395 belongs to KCAA. A survey of both parcels was conducted recently by Survey of Kenya and the process of registration of MN/2395 and negotiations over MN/1/6230 is underway. ▪ A formal request for an official search has since been lodged with the Chief Registrar, Land Central Registry, This will enable registration of the undisputed parcel.
2	Bamburi Staff Houses, Mombasa County	<ul style="list-style-type: none"> ▪ KCAA engaged the then Kenya Anti- Corruption Commission and now Ethics and Anti- Corruption Commission (EACC) in 2009 to assist in recovery of KCAA parcels that had been registered in third party names. ▪ Through a Gazette Notice No. 15570 dated 26th November 2010, the Registrar of Titles in Mombasa issued notification of revocation of land titles issued

No.	Location and Description	Status
		<p>retrieve the files so as to process the search certificates.</p> <p>iv) KCAA officers camped at the Lands office in Mombasa for two days straight i.e on 18th and 19th February 2025 but encountered difficulties in obtaining the search certificates especially for the matters that have already been concluded. Only one search certificate was issued on 19th February 2025 on an ongoing matter for plot No. 2408/1/MN.</p> <p>v) There was hesitation in indicating when the search certificates will be ready but the Registrar indicated that they will be issued progressively instead of waiting for all of them at once. The KCAA officers were advised to have someone on ground to constantly follow up.</p> <p>Summary Status</p> <ul style="list-style-type: none"> ▪ Follow-ups are being made with the Land Registrar to issue the certificates of search to facilitate processing of titles for the parcels of land that had been concluded in court in favour of the Authority. <p>Way Forward</p> <ul style="list-style-type: none"> ▪ Acquisition of the certificates of search for the seven (7) Parcels for submission to NLC for allocation of parcel to KCAA and subsequent issuance of title. ▪ Follow on the one (1) outstanding decree to enable a search and consequent NLC action. ▪ Hearing of the six (6) matters on the dates set till final conclusion. ▪ Erection of signage in each of the eight (8) parcels currently under KCAA possession indicating that they belong to KCAA.

No.	Location and Description	Status
		<ul style="list-style-type: none"> <li data-bbox="641 279 1443 640">▪ Francis Kagumba Gitonga & Mackdonald Lijodi Makaka T/A Markton Bulk Suppliers sued KCAA on 18th March, 2013 seeking: Permanent injunction restraining KCAA from ingressing, trespassing or from carrying out any construction, building or erecting any structures, selling and/or disposing of or carrying out any operations and/or activities whatsoever or otherwise on 'their' land; General Damages; and Costs of the suit <li data-bbox="641 661 1443 1123">▪ The matter is being handled by Kipkenda and Company Advocates and through them KCAA seeks: Permanent injunction restraining the Plaintiff from transferring, charging or dealing in any other manner in an attempt to defeat KCAA's interest of the original suit parcel; An order directing the Chief Land Registrar to cancel all titles excised out of the original parcel; and An order directing the Chief Land Registrar to rectify and correct the register and issue in KCAA's name all titles excised out of the original parcel L.R No. 39/I/R. <li data-bbox="641 1144 1443 1344">▪ The Chief Land Registrar filed a defence dated 17th April, 2020 confirming that parcel L.R. No. 39/I/R has been and still is the property of KCAA, and that the suit land had never been availed for allocation, alienation or offered for sale. <li data-bbox="641 1365 1443 1606">▪ The Plaintiff produced a letter of allotment dated 1st July, 1998 purportedly issued to Markton Bulk Suppliers but it turned out during hearing that the company was registered on 25th March, 2003 which was five (5) years after the letter of allotment was allegedly issued to it. <li data-bbox="641 1627 1443 1829">▪ There's no record of correspondence file for LR. No. 9042/800 and it was not appearing in the Deed Register. The management is also not able to get records for LR. No. 39/I/R from the Lands Registry. The suit came up for defence hearing on 29th January,

No.	Location and Description	Status
		<p>compulsorily acquire a part of KCAA land along Katani Road for purposes of upgrading to bitumen standards of Syokimau-Katani Road by KURA. The Authority has since fenced the entire 59.78Ha in its possession.</p> <p>Way Forward</p> <ul style="list-style-type: none"> ▪ Register the undisputed parcel in favour of KCAA, excluding the portion excised for KeNHA. ▪ Do a search of the eleven (11) parcels to establish status. ▪ Engage EACC for institution of recovery proceedings. ▪ Engage NLC for purposes of excision of the portion required for upgrading to bitumen standards of Syokimau-Katani Road.
6	Wajir County	<ul style="list-style-type: none"> ▪ The land is approximately 1.158 Ha. A survey of the parcel of land will be conducted in consultation with KFS by Survey of Kenya to ascertain ownership between Kenya Forest Service (KFS) and KCAA.
7	Plot No 405 at Bwagamoyo (Kilifi)	<ul style="list-style-type: none"> ▪ KCAA's predecessor, DCA, purchased this parcel of land (1.423 Ha) from the local community for erection of a flight beacon in Mwakirunge to guide the safe landing of aircraft at Moi International Airport, Mombasa. The Authority has since obtained a title deed
8	Generator Room Property at Lodwar	<ul style="list-style-type: none"> ▪ The land is approximately 23.22Ha. The Title deed for the land has been obtained by the Authority
9	L.R Nos 9042/26 & 28 at Embakasi Village, Nairobi County	<ul style="list-style-type: none"> ▪ The plot is approximately 0.57212 Ha. A survey has been done and land fenced off by KCAA. ▪ These parcels of land were inherited by DCA (KCAA's predecessor) from East African Common Services Organization. They were initially occupied by the employees of the defunct City Council of Nairobi, but

No.	Location and Description	Status
		<p>excising 13,000 hectares for human settlement and conservancies.</p> <ul style="list-style-type: none"> ▪ A consultative forum was held on 28th January 2025 aimed at setting the stage for the development of a Land Use and Management Plan for 21,000-hectare Ngai Ndeithya Game Reserve. The plan would allow the county government to excise 13,000 hectares off the protected area and pave way for issuance of title deeds. A multi-sectoral team has been established and tasked with drafting the management plan within six months. Letters of offers will be issued once Management plan is Gazetted. <p>Current status</p> <ul style="list-style-type: none"> ▪ The Authority is monitoring the progress of the development and gazettment of the management plan by the County Government of Makueni and the Kenya Wildlife Service. Once this is done, it will facilitate issuance of a title deed to the Authority.
11	Central Stores, Nairobi County	<ul style="list-style-type: none"> ▪ The NLC made recommendation on settlement of the issue pursuant to its letter dated 1st February 2019. The Authority filled a suit challenging NLC jurisdiction over the matter. Subsequently, the Board Resolved to adopt the NLC recommendations. The parties entered into a consent on 14th November, 2024, to implement the NLC recommendation. A valuation was jointly undertaken by NLC and Ministry of Lands, Public Works, Housing & Urban Development. The Chairman NLC via letter reference NLC/1/28/6 dated 6th March, 2025 forwarded the Valuation Report (of the valuation carried out to determine the market value as per terms of the consent and applicable valuation standards of the leasehold interest free of any encumbrances in L.R 209/14372 as on 25th February, 2024) to KCAA for necessary action. ▪ KCAA is already in receipt of Kshs. 355,000,000.00 (read: Kenya Shillings Three Hundred and Fifty-Five

3. Ngai Ndethya Settlement Scheme/161, Mtito- Andei:

A survey shows KCAA owns approximately 2.817 acres, not 13 acres. The entire scheme is registered under Kenya Wildlife Services. KCAA is monitoring negotiations between Makueni County and KWS to facilitate title deed issuance. KCAA was monitoring progress of development and gazettelement of the management plan by the County government of Makueni and the Kenya Wildlife Service.

4. Central Stores, Nairobi:

KCAA's Board of Directors accepted and received Ksh355 million as final settlement for the compensation of the property. This was after joint valuation by National Land Commission and the Public Works, Housing & Urban Development.

1041. The management of KCAA had made progress in recovering parcels of land and were working with the Ethics and Anti-Corruption Commission (EACC) and National Land Commission (NLC) to find missing documents and process titles.

Committee Recommendation

1042. The Committee directs that within thirty (30) days of adoption of this report, the accounting officer to place a caution or caveats on the disputed parcels of land occupied by third parties and the caution or caveats be submitted to the OAG.

1043. The Committee directs that within six (6) months of adoption of this report, the Accounting Officer to convene an inter-agency collaboration with the relevant stakeholders in relation to land disputes linked with other government agencies and in a bid to find a solution to the ownership status of the contested parcels.

1044. The Committee directs the Accounting Officer to liaise with EACC and NLC in recovering the parcels occupied by non-government agencies.

2. Revenue

1045. The statement of financial performance reflects revenue from non-exchange transactions, air passenger service charge fee totaling Ksh2,510,200,209, as further disclosed under Note 7 to the financial statements. The balance denotes revenue collected by the Kenya Revenue Authority

REPORT OF LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4. Failure to Utilize Some Modules of Human Resource Management System

1050. The contract for the supply, installation and commissioning of Human Resource Management (HRM) System was awarded at a contract sum of Ksh8,415,200 and was due for implementation in 34 weeks commencing June, 2014. Although, the whole contract price was paid to the contractor, modules for attendance, staff discipline and exit and pensions management were not utilized. In the circumstance, value for money may not have been realized on the expenditure totaling Ksh8,415,200 incurred on the system.

Management Response

1051. The management stated that the contractor was not paid the full contract sum, but 70% which was Kshs5,890,640. The amount was paid in three instalments as Ksh3,029,472, that is on the 28th of April, 2014, Ksh336,608 on the 5th of May, 2014, and Ksh2,524,560 on the 13th of August, 2015. The system was to have nine modules, but out of which seven were delivered, implemented and operationalized. Further, since two modules were not done, the authority did not pay for them. As a result, a credit note of Ksh2,524,559.98 was passed to the vendor ledger on 30th June 2019.

1052. The authority only paid Ksh5,890,640 for the seven modules, including time in attendance, disciplinary management, exit interviews and pension and other benefit modules that were completed and used.

Committee Observations

1053. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Contractor had delivered seven modules and had been paid 70% of the contract amount, totaling to Kshs. 5,890,640.

1054. Further, the Committee observed that the remaining two modules were subsequently implemented internally by the management, and there was no loss of public funds.

1055. The Committee observes that since the modules were implemented, the matter is resolved.

5. Terminated Electronic Document Management System Contract.

1056. The contract for the supply, installation and commissioning of Electronic Document Management (EDM) System was procured at a contract sum of

6. Property, Plant and Equipment

1062. As disclosed in Note 27a to the financial statements, the statement of financial position reflects property, plant and equipment balance totaling to Ksh18,076,601,574. Review of records revealed the following unsatisfactory observations:

6.1 Lack of Ownership Documents for Land and Buildings

As reported previously, ownership documents for land and buildings were not provided. These are: - thirty-one (31) housing units at Nyali, Mombasa, thirteen (13) housing units at Bamburi, Mombasa, eighty-seven (87) acres of land at East African School of Aviation, Nairobi, one hundred and thirty-two (132) acres at Central Transmitting station along Mombasa Road, and staffing houses at Miritini, Mombasa. Further, ownership documents for: - a property at Wajir, a plot at Bwagamoyo Kilifi, a plot at Lokichogio, Generator Room at Lodwar in Turkana and plots at Embakasi village were not provided. The preparation of the ownership documents was reported to be underway at the Ministry of Lands and Physical Planning with no indication as to when the process is likely to be completed.

Management Response

No.	Location and Description	Status
1	Thirty-one (31) housing units at Nyali, Mombasa	<ul style="list-style-type: none"> ▪ There are two parcels of land measuring approximately 1.696ha with 36 houses. These parcels were allocated to DCA by the Government of Kenya after the collapse of the East African Community. ▪ One parcel is registered in the name of Kenya Revenue Authority (KRA) thus there has been a dispute between KRA and KCAA over ownership. KRA claims MN/1/6230 which they have registered under their name whereas MN/2395 belongs to KCAA. A survey of both parcels was conducted recently by Survey of Kenya and the process of registration of MN/2395 and negotiations over MN/1/6230 is underway. ▪ A formal request for an official search has since been lodged with the Chief Registrar, Land Central Registry, This will enable registration of the undisputed parcel.
2	Bamburi Staff Houses,	<ul style="list-style-type: none"> ▪ KCAA engaged the then Kenya Anti- Corruption Commission and now Ethics and Anti- Corruption

No.	Location and Description	Status
		<p>parcels and retrieve the files so as to process the search certificates.</p> <p>iv) KCAA officers camped at the Lands office in Mombasa for two days straight i.e on 18th and 19th February 2025 but encountered difficulties in obtaining the search certificates especially for the matters that have already been concluded. Only one search certificate was issued on 19th February 2025 on an ongoing matter for plot No. 2408/1/MN.</p> <p>v) There was hesitation in indicating when the search certificates will be ready but the Registrar indicated that they will be issued progressively instead of waiting for all of them at once. The KCAA officers were advised to have someone on ground to constantly follow up.</p> <p>Summary Status</p> <ul style="list-style-type: none"> ▪ Follow ups are being made with the Land Registrar to issue the certificates of search to facilitate processing of titles for the parcels of land that had been concluded in court in favour of the Authority. <p>Way Forward</p> <ul style="list-style-type: none"> ▪ Acquisition of the certificates of search for the seven (7) Parcels for submission to NLC for allocation of parcel to KCAA and subsequent issuance of title. ▪ Follow on the one (1) outstanding decree to enable a search and consequent NLC action. ▪ Hearing of the six (6) matters on the dates set till final conclusion. ▪ Erection of signage in each of the eight (8) parcels currently under KCAA possession indicating that they belong to KCAA.
3	Staff houses in Miritini,	<ul style="list-style-type: none"> ▪ The parcel of land is located in Miritini area of Mombasa West mainland along Mombasa-Nairobi Highway, approximately 10 KM from Mombasa Island. The land

No.	Location and Description	Status
		<p>whatsoever or otherwise on 'their' land; General Damages; and Costs of the suit</p> <ul style="list-style-type: none"> ▪ The matter is being handled by Kipkenda and Company Advocates and through them KCAA seeks: Permanent injunction restraining the Plaintiff from transferring, charging or dealing in any other manner in an attempt to defeat KCAA's interest of the original suit parcel; An order directing the Chief Land Registrar to cancel all titles excised out of the original parcel; and An order directing the Chief Land Registrar to rectify and correct the register and issue in KCAA's name all titles excised out of the original parcel L.R No. 39/I/R. ▪ The Chief Land Registrar filed a defence dated 17th April, 2020 confirming that parcel L.R. No. 39/I/R has been and still is the property of KCAA, and that the suit land had never been availed for allocation, alienation or offered for sale. ▪ The Plaintiff produced a letter of allotment dated 1st July, 1998 purportedly issued to Markton Bulk Suppliers but it turned out during hearing that the company was registered on 25th March, 2003 which was five (5) years after the letter of allotment was allegedly issued to it. ▪ There's no record of correspondence file for LR. No. 9042/800 and it was not appearing in the Deed Register. The management are also not able to get records for LR. No. 39/I/R from the Lands Registry. The suit came up for defence hearing on 29th January, 2025 but adjourned upon application by the Attorney General. ▪ The entire property is secured the undisputed parcel (57 acres) is registered under KCAA. A legal suit on recovery of the excised portions LR. Nos 9042/638-645 (30 acres) is pending determination in Court. Matter is awaiting defense hearing. ▪ The Authority wrote to the Ethics and Anti-Corruption Commission on 24th March 2025 requesting it to investigate the circumstances leading to the illegal subdivisions, to

No.	Location and Description	Status
6	Wajir County	<ul style="list-style-type: none"> ▪ The land is approximately 1.158 Ha. A survey of the parcel of land will be conducted in consultation with KFS by Survey of Kenya to ascertain ownership between Kenya Forest Service (KFS) and KCAA.
7	Plot No 405 at Bwagamoyo (Kilifi)	<ul style="list-style-type: none"> ▪ KCAA's predecessor, DCA, purchased this parcel of land (1.423 Ha) from the local community for erection of a flight beacon in Mwakirunge to guide the safe landing of aircraft at Moi International Airport, Mombasa. The Authority has since obtained a title deed
8	Generator Room Property at Lodwar	<ul style="list-style-type: none"> ▪ The land is approximately 23.22Ha. The Title deed for the land has been obtained by the Authority
9	L.R Nos 9042/26 & 28 at Embakasi Village, Nairobi County	<ul style="list-style-type: none"> ▪ The plot is approximately 0.57212 Ha. A survey has been done and land fenced off by KCAA. ▪ These parcels of land were inherited by DCA (KCAA's predecessor) from East African Common Services Organization. They were initially occupied by the employees of the defunct City Council of Nairobi, but were surrendered and are currently inhabited by KCAA junior staff. ▪ There was dispute as to ownership with the City Council of Nairobi, culminating in High court civil suit No. 185 of 2011, where the City Council conceded ownership to KCAA. A survey was done and land fenced off by KCAA the houses are co-owned between MET and KCAA
10	Ngai Ndeithya Settlement Scheme/161-Mfito-Andei	<ul style="list-style-type: none"> ▪ This land contains Aviation equipment (VOR). The property measures about 13 acres and is close to Tsavo National Park. The parcel was vested in KCAA through Gazette Notice No. 173 of 2006 made on 13th October 2006. A survey conducted by survey of Kenya shows that ownership of approximately 3 Acres as opposed to 13 Acres of land belong to KCAA, hence, SoK recommended further that a verification regarding ownership through a search carried out at the Survey, Land Adjudication and settlement and Land Registry offices located in Kibwezi town. And a cross

No.	Location and Description	Status
		<p>14th November, 2024, to implement the NLC recommendation. A valuation was jointly undertaken by NLC and Ministry of Lands, Public Works, Housing & Urban Development. The Chairman NLC via letter reference NLC/1/28/6 dated 6th March, 2025 forwarded the Valuation Report (of the valuation carried out to determine the market value as per terms of the consent and applicable valuation standards of the leasehold interest free of any encumbrances in L.R 209/14372 as on 25th February, 2024) to KCAA for necessary action.</p> <ul style="list-style-type: none"> ▪ KCAA is already in receipt of Kshs. 355,000,000.00 (read: Kenya Shillings Three Hundred and Fifty-Five Million) being the returned market value as per NLC valuation and the KCAA Board of Directors has since resolved to accept the payment as full and final restitution.
12	Property L.R No.28192 at Lokichogio	<ul style="list-style-type: none"> ▪ A survey of the parcel of land will be conducted in consultation with Kenya Forest Service (KFS) by Survey of Kenya to ascertain ownership between KFS and KCAA.

Committee Observations

1063. At the time of examination, the Committee noted the Authority was in various stages of recovering land as detailed below: -

a. Thirty-one housing units at Nyali, Mombasa:

Dispute with Kenya Revenue Authority (KRA) over land ownership, survey conducted, and registration of undisputed parcels is underway. KCAA and KRA are in negotiations over ownership of the disputed parcel.

b. Bamburi Staff Houses, Mombasa:

The parcels of land were registered under 3rd parties, a Gazette Notice issued on 26th November 2010 revoked the titles that had been issued. The management engaged EACC to assist in the recovery of the 12 parcels registered to 3rd parties and two unregistered parcels.

The court has ruled in favour of KCAA regarding six parcels of land, while the remaining six parcels are still under active litigation. Management is working closely with the EACC to monitor the progress of these cases and to ensure the effective implementation of the court decrees.

progress of the development and gazettelement of the management plan by the County government of Makueni and the Kenya Wildlife Service.

k. Central Stores, Nairobi:

KCAA's Board of Directors accepted and received Ksh355 million as final settlement for the compensation of the property. This was after joint valuation by National Land Commission and the Ministry of Public Works, Housing & Urban Development.

l. LR No. 28192, Lokichogio:

Survey of the land will be conducted in consultation with the Kenya Forest Service to ascertain the ownership between the parties.

Committee Observation

1064. The Committee observed that the management of KCAA had made progress in recovering parcels of land and were working with the Ethics and Anti-Corruption Commission (EACC) and National Land Commission (NLC) to find missing documents and process titles.

Committee Recommendations

1065. The Committee directs that within six (6) months upon adoption of this report, the accounting officer of KCAA to process the title for the undisputed 59 acres of the Central Transmitting Station, Mlolongo, and subsequently pursue the repossession and amalgamation of the eleven (11) excised portions and submit a progress report on the land registration process to the OAG for verification.

1066. The Committee directs that within thirty (30) days of adoption of this report, the Accounting Officer to place a caution or caveat on the disputed parcels of land occupied by third parties and the caution or caveat be submitted to the OAG.

1067. The Committee directs that within six (6) months of adoption of this report, the Accounting Officer to convene an inter-agency collaboration with the relevant stakeholders in relation to the land disputes linked with other government agencies and in a bid to find a solution to the ownership status on the contested parcels.

1068. The Committee directs the Accounting Officer to liaise with EACC and NLC in recovering the parcels occupied by non-government agencies.

6.2 Properties Allocated to Third Parties

1069. Review of records indicated parcels of land belonging to the Authority that have been allocated and registered in the name of third parties. The Public

No.	Location and Description	Status
		<p>issued notification of revocation of land titles issued to private developers on parcels of land reserved for public purposes. Among them were 14 parcels of land that were reserved for KCAA.</p> <ul style="list-style-type: none"> ▪ EACC instituted recovery proceedings on behalf of KCAA on 12 parcels of land belonging to KCAA. Two were not registered in any third party name. ▪ So far 6 matters have been concluded and court orders issued in favor of KCAA. The decrees have been extracted and were forwarded to the Registrar of Titles in Mombasa to be registered as follows. Six (6) matters are still active in court with varied hearing dates. ▪ KCAA officers visited EACC offices in Mombasa, Land Registrar in Mombasa and NLC from 17th to 19th February 2025. The following are the highlights of the meetings held in the 3 offices: <ul style="list-style-type: none"> i) EACC shared a status report on the recovery proceedings they have been undertaking on behalf of KCAA, copies of the four (4) court decrees and applications to register the same by the Registrar of Titles on the matters concluded in favor of KCAA. ii) NLC advised that they would require the court decrees and certificates of search from the registrar of titles showing the revocation of the titles issued to the 3rd parties. These are to be attached to a letter requesting for allocation of the parcel to KCAA for issuance of ownership document. NLC does not charge for allocation of public land. iii) Request was made to the Registrar of Titles to issue search Certificates to all the 14 KCAA Bamburi Parcels. The Registrar advised that they first have to issue Certificate of Registration (CR) numbers on the parcels and

No.	Location and Description	Status
3	Staff houses in Miritini, Mombasa County	<ul style="list-style-type: none"> ▪ The parcel of land is located in Miritini area of Mombasa West mainland along Mombasa-Nairobi Highway, approximately 10 KM from Mombasa Island. The land measures 2.4 hectares and has 124 residential units of various categories and one canteen. ▪ The estate was constructed by the East African Community (EAC) and allocated to the Customs Department (now Kenya Revenue Authority - KRA), Directorate of Civil Aviation-DCA (now Kenya Civil Aviation Authority - KCAA) and Meteorological departments (MET) as follows; Customs Department (KRA) 14 Units, Directorate of Civil Aviation (KCAA), 80 Units and Meteorological Department (MET) 30 Units. ▪ KRA currently has the title document over the entire parcel of land. Several meetings have been organized to discuss possible joint ownership between KCAA, KRA and Meteorology Department. Consultative meetings for long term solution between the three entities has been on-going.
4	East African School of Aviation (EASA), Nairobi County	<ul style="list-style-type: none"> ▪ Land comprising 87 Acres was allocated to EASA through an allotment letter reference number 14723/3 dated 1st July 1998. ▪ Illegal subdivision was undertaken without KCAA's approval and knowledge where L.R No. 9042/638, 9042/639, 9042/640, 9042/641, 9042/642, 9042/643, 9042/644, 9042/645, 9042/664 and 9042/698 were issued to private persons. They were later consolidated into two subdivisions namely L.R No. 9042/664 for 57.10 Acres in favour of KCAA, and L.R No. 9042/800 for 30 Acres jointly to Francis Kagumba Gitonga & Mackdonald Lijodi Makaka T/A Markton Bulk Suppliers, respectively. ▪ The title to the undisputed LR. No. 9042/664 has already been registered under KCAA. KCAA is also in possession of the disputed 30 Acres.

No.	Location and Description	Status
		<p>2025 but adjourned upon application by the Attorney General.</p> <ul style="list-style-type: none"> ▪ The entire property is secured the undisputed parcel (57 acres) is registered under KCAA. A legal suit on recovery of the excised portions LR. Nos 9042/638-645 (30acres) is pending determination in Court. Matter is awaiting defense hearing. ▪ The Authority wrote to the Ethics and Anti-Corruption Commission on 24th March 2025 requesting it to investigate the circumstances leading to the illegal subdivisions, to enjoin in the case to support the Authority in the recovery process and to prosecute the perpetrators.
5	<p>Central Transmission Station (CTX) in Mlolongo, Machakos County</p>	<ul style="list-style-type: none"> ▪ The parcel was originally 160acres. The property, however, has been irregularly subdivided and eleven (11) parcels of Land caved out of a portion of the Property, to wit; LR Nos. 25769, 25770, 25771, 25772, 25773, 25774, 25775, 25776, 25777, 25778 and 25779. The sub-division was done without reference to KCAA and a consent was never sought from KCAA before the sub-division. ▪ The Ministry of Lands issued KCAA with a Letter of Allotment for the remainder of the parcel of land measuring 59.78 ha and a Survey Plan for the New Parcel issued with the Land Reference number indicated in the allotment as 227573/13. ▪ KCAA has through letters dated 28th April 2022 and 30th June 2023 engaged the Ethics and Anti-Corruption Commission to intervene in recovery of the illegally acquired parcels. KCAA also engaged the Survey of Kenya who surveyed the parcel and noted the illegally acquired parcels in their report and recommended that KCAA pursues recovery of the said parcels. 2.95 Ha was hived off for KenHA road expansion. The management is also in receipt of a letter from NLC regarding their intention to

No.	Location and Description	Status
		<p>were surrendered and are currently inhabited by KCAA junior staff.</p> <ul style="list-style-type: none"> ▪ There was dispute as to ownership with the City Council of Nairobi, culminating in High court civil suit No. 185 of 2011, where the City Council conceded ownership to KCAA. A survey was done and land fenced off by KCAA the houses are co-owned between MET and KCAA
10	<p>Ngai Ndeithya Settlement Scheme/161-Mtito-Andei</p>	<ul style="list-style-type: none"> ▪ This land contains Aviation equipment (VOR). The property measures about 13 acres and is close to Tsavo National Park. The parcel was vested in KCAA through Gazette Notice No. 173 of 2006 made on 13th October 2006. A survey conducted by survey of Kenya shows that ownership of approximately 3 Acres as opposed to 13 Acres of land belong to KCAA, hence, SoK recommended further that a verification regarding ownership through a search carried out at the Survey, Land Adjudication and settlement and Land Registry offices located in Kibwezi town. And a cross reference of the same be done at the central registry to confirm the initial allottee of the land with the possibility of initiating a recovery process. The ownership document is yet to be obtained. ▪ As per the Land Adjudication and settlement records in Kibwezi, the parcel size registered for KCAA known as Ngai Ndeithya Settlement Scheme/161 is 1.14Ha approximately 2.817 acres. ▪ Prior to issuance of letters of offers to facilitate generation of title deeds for the settlement scheme it was discovered that the entire Ngai Ndeithya plot had been registered under Kenya Wildlife Services as a game reserve. Makueni County has been negotiating with Kenya Wildlife Service and has initiated plans to draw a Land Management Plan for Ngai Ndeithya Game Reserve, geared towards

No.	Location and Description	Status
		Million) being the returned market value as per NLC valuation and the KCAA Board of Directors has since resolved to accept the payment as full and final restitution.
12	Property L.R No.28192 at Lokichogio	<ul style="list-style-type: none"> ▪ A survey of the parcel of land will be conducted in consultation with Kenya Forest Service (KFS) by Survey of Kenya to ascertain ownership between KFS and KCAA.

Committee Observation

1070. At the time of examination the Committee noted that the Authority was in various stages of recovering land as detailed below: -

1. Bamburi Staff Houses, Mombasa:

(e) The parcels of land were registered under 3rd parties and a Gazette Notice issued on 26th November 2010 revoked the titles that had been issued. The management engaged EACC to assist in the recovery of the 12 parcels registered to 3rd parties and two unregistered parcels.

(f) The court has ruled in favour of KCAA regarding six parcels of land, while the remaining six parcels are still under active litigation. Management is working closely with the EACC to monitor the progress of these cases and to ensure the effective implementation of the court decrees.

(g) The Committee noted that the management of KCAA had encountered non-cooperation from the Lands Office in Mombasa when seeking assistance with land searches related to the concluded cases.

(h) The management of KCAA were making follow up with the land registrar to issue the certificate of search and processing of titles of the concluded cases and securing the parcels.

2. East African School of Aviation, Nairobi:

The undisputed 57.10 acres are registered under KCAA. A legal suit is pending for the recovery of 30 disputed acres, and KCAA has requested EACC to investigate illegal subdivisions and prosecute perpetrators.

Fund. However, the gross revenue collected by KRA was not provided. In the circumstances, the accuracy, completeness and validity of revenue from non-exchange transactions, air passenger service charge fee totaling to Ksh1,924,086,017, reflected in the statement of financial performance for the year ended 30 June 2020, could not be confirmed.

Management Response

1076. During the financial year ended 30th June 2020, the Authority received Ksh1,924,086,017 for the air passenger service charge (APSC) from KAA. The Authority has, from time to time, made a follow-up with KAA to remit its fair share of APSC collections by issuance of demand letters. The basis of these demand letters has been the monthly air passenger reconciliations done by a team comprising officers from KCAA, KAA and KRA. However, these demand letters are not always honored, citing non-remittances from KRA or cash flow challenges.

1077. The funds are collected by KRA and remitted to a fund managed by KAA. KCAA does not have visibility of the funds to determine the gross revenue collected by KRA. Therefore, the APSC Act should be amended to allow remittance of the KCAA portion of the sum collected by KRA directly to the Authority.

Committee Observation

1078. The Committee observed that there is a need to amend the Air Passenger Service Charge (APSC) Act, Cap 475 to provide for direct remittance of the KCAA share of the APSC by the Kenya Revenue Authority (KRA). Currently, KCAA's share is routed through the Kenya Airports Authority (KAA), which had contributed to delays in fund disbursement.

Committee Recommendation

1079. The Committee directs within six (6) months of adoption of this report, the accounting officer of KCAA to convene an interagency collaboration with KAA and KRA with a view of establishing possible solutions to the challenge on disbursement of the Airport Passenger Service Charge and submit a report to the OAG and Parliament.

amounting to Kshs. 309,785,524. It was noted that a foreign exchange gain adjustment amounting to Kshs. 270,481,106 was in respect to Kenya Shillings equivalent of three (3) US Dollar-denominated accounts held by the Authority as at 30 June 2021. However, the balance of Kshs. 39,304,418 was not supported.

1087. In the circumstances, the accuracy of the exchange gain amounting to Kshs. 309,785,524 could not be confirmed.

Management Response

1088. The management stated that as part of the year-end closing procedures, the Authority has to run a foreign currency adjustment process in its reporting system, the Enterprise Resource Planning (ERP), Navision. This is a back-end process that affects any foreign-denominated balance(s) in the ERP as at 30th June of every year and is done using the Central Bank of Kenya's mean rates. This being a back-end process, the journals that are ERP system generated get posted on the last date of the period under consideration in the periodic adjustment. This process affects customer, vendor and bank/cash book accounts.

1089. The analysis of the foreign exchange gains for the financial year 2020/21 is summarized, which includes the amount of Ksh39,304,418, which are all duly supported and accounted for.

Committee Observation

1090. At the time of examination, the management provided documentation and an analysis of the foreign exchange gains, which included the previously unsupported Kshs. 39,304,418; therefore, the matter stands resolved.

9. Current Receivables from Exchange Transactions

1091. The statement of financial position and the corresponding Note 23 to the financial statements reflects gross receivables from exchange transactions balance of Kshs1,050,840,530. However, the following anomalies were noted:

9.1 Variance between the Financial Statements and Supporting Records

1092. Review of records indicated that the balances for three categories of the current receivables from exchange transactions did not agree with the balances reflected in the system-generated listing provided for audit review, resulting in an unexplainable variance as detailed below:

of the receivables. Although, general and specific provisions for bad and doubtful debts amount of Kshs. 94,864,165 and Kshs. 461,676,687 respectively, have been provided, its adequacy over the Kenya Airways Limited debt is doubtful.

1098. In the circumstances, the accuracy and completeness of the specific and general provision for bad and doubtful debts of Kshs. 461,676,687 and Ksh94,864,165, respectively, could not be confirmed.

Management Response

1099. The provision for bad and doubtful debts was arrived based on the analysis of the debtor portfolio as at 30th June 2021. The same was subjected to the formula as indicated in the finance policy and procedures manual for KCAA. The workings for the bad and doubtful debts for the period ended 30th June 2021 are hereby attached. Kenya Airways has also been doing remittances, though not on a consistent basis. The current balance owed by Kenya Airways was Kshs.1,525,714,661.20 as at 30th April 2025. With regard to the outstanding amount with KRA, the Authority continues to follow up with KRA to ensure the amount that is outstanding is duly remitted.

Committee Observation

1100. At the time of examination, the Committee noted that the management of KCAA had a Finance Policy and Procedures Manual to guide the management of bad and doubtful debts. For the year under review, the determination of bad and doubtful debts was based on an analysis of the debtor portfolio.

Committee Recommendation

1101. The Committee directs that within six (6) months of the adoption of this report, the Accounting Officer to liaise with the National Treasury to explore possible avenues for the recovery of the debts owed by KRA and Kenya Airways. A progress report on the recovery efforts to be submitted to the OAG for verification.

10. Property, Plant and Equipment

1102. The statement of financial position and as disclosed in Note 27 to the financial statements, reflects property, plant and equipment balance of Ksh18,080,031,608. However, the following anomalies were noted:

No.	Location and Description	Status
		<p>developers on parcels of land reserved for public purposes. Among them were 14 parcels of land that were reserved for KCAA.</p> <ul style="list-style-type: none"> ▪ EACC instituted recovery proceedings on behalf of KCAA on 12 parcels of land belonging to KCAA. Two were not registered in any third party name. ▪ So far 6 matters have been concluded and court orders issued in favor of KCAA. The decrees have been extracted and were forwarded to the Registrar of Titles in Mombasa to be registered as follows. Six (6) matters are still active in court with varied hearing dates. ▪ KCAA officers visited EACC offices in Mombasa, Land Registrar in Mombasa and NLC from 17th to 19th February 2025. The following are the highlights of the meetings held in the 3 offices: <ul style="list-style-type: none"> i) EACC shared a status report on the recovery proceedings they have been undertaking on behalf of KCAA, copies of the four (4) court decrees and applications to register the same by the Registrar of Titles on the matters concluded in favor of KCAA. ii) NLC advised that they would require the court decrees and certificates of search from the registrar of titles showing the revocation of the titles issued to the 3rd parties. These are to be attached to a letter requesting for allocation of the parcel to KCAA for issuance of ownership document. NLC does not charge for allocation of public land. iii) Request was made to the Registrar of Titles to issue search Certificates to all the 14 KCAA Bamburi Parcels. The Registrar advised that they first have to issue Certificate of Registration (CR) numbers on the parcels and retrieve the files so as to process the search certificates.

No.	Location and Description	Status
		<ul style="list-style-type: none"> ▪ The estate was constructed by the East African Community (EAC) and allocated to the Customs Department (now Kenya Revenue Authority - KRA), Directorate of Civil Aviation-DCA (now Kenya Civil Aviation Authority - KCAA) and Meteorological departments (MET) as follows; Customs Department (KRA) 14 Units, Directorate of Civil Aviation (KCAA), 80 Units and Meteorological Department (MET) 30 Units. ▪ KRA currently has the title document over the entire parcel of land. Several meetings have been organized to discuss possible joint ownership between KCAA, KRA and Meteorology Department. Consultative meetings for long term solution between the three entities has been on-going.
4	East African School of Aviation (EASA), Nairobi County	<ul style="list-style-type: none"> ▪ Land comprising 87 Acres was allocated to EASA through an allotment letter reference number 14723/3 dated 1st July 1998. ▪ Illegal subdivision was undertaken without KCAA's approval and knowledge where L.R No. 9042/638, 9042/639, 9042/640, 9042/641, 9042/642, 9042/643, 9042/644, 9042/645, 9042/664 and 9042/698 were issued to private persons. They were later consolidated into two subdivisions namely L.R No. 9042/664 for 57.10 Acres in favour of KCAA, and L.R No. 9042/800 for 30 Acres jointly to Francis Kagumba Gitonga & Mackdonald Lijodi Makaka T/A Markton Bulk Suppliers, respectively. ▪ The title to the undisputed LR. No. 9042/664 has already been registered under KCAA. KCAA is also in possession of the disputed 30 Acres. ▪ Francis Kagumba Gitonga & Mackdonald Lijodi Makaka T/A Markton Bulk Suppliers sued KCAA on 18th March, 2013 seeking: Permanent injunction restraining KCAA from ingressing, trespassing or from carrying out any construction, building or erecting any structures, selling and/or disposing of or carrying out any operations and/or

No.	Location and Description	Status
		subdivisions, to enjoin in the case to support the Authority in the recovery process and to prosecute the perpetrators.
5	Central Transmission Station (CTX) in Mlolongo, Machakos County	<ul style="list-style-type: none"> ▪ The parcel was originally 160acres. The property, however, has been irregularly subdivided and eleven (11) parcels of Land caved out of a portion of the Property, to wit; LR Nos. 25769, 25770, 25771, 25772, 25773, 25774, 25775, 25776, 25777, 25778 and 25779. The subdivision was done without reference to KCAA and a consent was never sought from KCAA before the subdivision. ▪ The Ministry of Lands issued KCAA with a Letter of Allotment for the remainder of the parcel of land measuring 59.78 ha and a Survey Plan for the New Parcel issued with the Land Reference number indicated in the allotment as 227573/13. ▪ KCAA has through letters dated 28th April 2022 and 30th June 2023 engaged the Ethics and Anti- Corruption Commission to intervene in recovery of the illegally acquired parcels. KCAA also engaged the Survey of Kenya who surveyed the parcel and noted the illegally acquired parcels in their report and recommended that KCAA pursues recovery of the said parcels. 2.95 Ha was hived off for KeNHA road expansion. The management is also in receipt of a letter from NLC regarding their intention to compulsorily acquire a part of KCAA land along Katani Road for purposes of upgrading to bitumen standards of Syokimau-Katani Road by KURA. The Authority has since fenced the entire 59.78Ha in its possession. <p>Way Forward</p> <ul style="list-style-type: none"> ▪ Register the undisputed parcel in favour of KCAA, excluding the portion excised for KeNHA. ▪ Do a search of the eleven (11) parcels to establish status. ▪ Engage EACC for institution of recovery proceedings.

No.	Location and Description	Status
		<p>recommended further that a verification regarding ownership through a search carried out at the Survey, Land Adjudication and settlement and Land Registry offices located in Kibwezi town. And a cross reference of the same be done at the central registry to confirm the initial allottee of the land with the possibility of initiating a recovery process. The ownership document is yet to be obtained.</p> <ul style="list-style-type: none"> ▪ As per the Land Adjudication and settlement records in Kibwezi, the parcel size registered for KCAA known as Ngai Ndeithya Settlement Scheme/161 is 1.14Ha approximately 2.817 acres. ▪ Prior to issuance of letters of offers to facilitate generation of title deeds for the settlement scheme it was discovered that the entire Ngai Ndeithya plot had been registered under Kenya Wildlife Services as a game reserve. Makueni County has been negotiating with Kenya Wildlife Service and has initiated plans to draw a Land Management Plan for Ngai Ndeithya Game Reserve, geared towards excising 13,000 hectares for human settlement and conservancies. ▪ A consultative forum was held on 28th January 2025 aimed at setting the stage for the development of a Land Use and Management Plan for 21,000-hectare Ngai Ndeithya Game Reserve. The plan would allow the county government to excise 13,000 hectares off the protected area and pave way for issuance of title deeds. A multi-sectoral team has been established and tasked with drafting the management plan within six months. Letters of offers will be issued once Management plan is Gazetted. <p>Current status</p> <ul style="list-style-type: none"> ▪ The Authority is monitoring the progress of the development and gazettment of the management plan by the County Government of Makueni and the Kenya

b. Bamburi Staff Houses, Mombasa:

1107. The parcels of land were registered under 3rd parties, a Gazette Notice issued on 26th November 2010 revoked the titles that had been issued. The management engaged EACC to assist in the recovery of the 12 parcels registered to 3rd parties and two unregistered parcels.
1108. The court has ruled in favour of KCAA regarding six parcels of land, while the remaining six parcels are still under active litigation. Management is working closely with the EACC to monitor the progress of these cases and to ensure the effective implementation of the court decrees.
1109. The Committee noted that the management of KCAA had encountered non-cooperation from the Lands Office in Mombasa when seeking assistance with land searches related to the concluded cases.
1110. The management of KCAA were making follow up with the land registrar to issue the certificate of search and processing of titles of the concluded cases and securing the parcels.

c. Miritini, Mombasa:

1111. KRA holds the title for the entire parcel, and consultative meetings for joint ownership with KCAA and the Meteorological Department are ongoing.

d. East African School of Aviation, Nairobi:

1112. The undisputed 57.10 acres are registered under KCAA. A legal suit is pending for the recovery of 30 disputed acres, and KCAA has requested EACC to investigate illegal subdivisions and prosecute perpetrators.

e. Central Transmitting Station, Mlolongo:

1113. KCAA is in occupation of the entire 160-acre parcel, which is fenced, and includes their air navigation service complex. However, 11 parcels were irregularly subdivided without KCAA's consent. KCAA lacks the title for the entire parcel and cannot file a caution due to missing files. There's an ongoing engagement with NLC for compulsory acquisition of a portion for road upgrading. KCAA are in the process of conducting a search for the 11 parcels and register in their favour and then to engage EACC for recovery.

f. Wajir County:

1114. Surveys are underway to ascertain ownership between KCAA and Kenya Forest Services.

repossession and amalgamation of the eleven (11) excised portions, and to submit a progress report on the land registration process to the OAG for verification.

1123. The Committee directs that within thirty (30) days of adoption of this report, the Accounting Officer to place a caution or caveat on the disputed parcels of land occupied by third parties and the caution or caveat be submitted to the OAG.
1124. The Committee directs that within six (6) months upon adoption of this report, the Accounting Officer to convene an inter-agency collaboration with the relevant stakeholders in relation to the land disputes linked with other government agencies and in a bid to find a solution to the ownership status on the contested parcels.
1125. The Committee directs the Accounting Officer to liaise with EACC and NLC in recovering the parcels occupied by non-government agencies.

10.2 Properties Allocated to Third Parties

1126. As reported previously, review of land records revealed that four (4) parcels of land belonging to the Authority in Mtiito-Andei-Ngai Ndeithya Settlement Scheme/161, Bamburi Staff Housing, Central Stores in Nairobi and East African School of Aviation have been allocated and registered in the name of third parties.
1127. Further, the Public Investment Committee in its 19th Report recommended that the National Lands Commission revoke the titles, revert them and register all owned parcels of land in the Authority's name. In addition, the Committee had previously recommended that the National Lands Commission Investigates circumstances under which a plot in Nairobi County was transferred from public to private ownership.
1128. Although Management has indicated that it is pursuing a number of these matters in court, progress made for each specific case has not been provided.
1129. In the circumstances, the accuracy completeness and ownership of the property, plant and equipment balance of Kshs18,080,031,608 could not be confirmed.

No.	Location and Description	Status
		<ul style="list-style-type: none"> ▪ KCAA officers visited EACC offices in Mombasa, Land Registrar in Mombasa and NLC from 17th to 19th February 2025. The following are the highlights of the meetings held in the 3 offices: <ul style="list-style-type: none"> i) EACC shared a status report on the recovery proceedings they have been undertaking on behalf of KCAA, copies of the four (4) court decrees and applications to register the same by the Registrar of Titles on the matters concluded in favor of KCAA. i) NLC advised that they would require the court decrees and certificates of search from the registrar of titles showing the revocation of the titles issued to the 3rd parties. These are to be attached to a letter requesting for allocation of the parcel to KCAA for issuance of ownership document. NLC does not charge for allocation of public land. ii) Request was made to the Registrar of Titles to issue search Certificates to all the 14 KCAA Bamburi Parcels. The Registrar advised that they first have to issue Certificate of Registration (CR) numbers on the parcels and retrieve the files so as to process the search certificates. iii) KCAA officers camped at the Lands office in Mombasa for two days straight i.e on 18th and 19th February 2025 but encountered difficulties in obtaining the search certificates especially for the matters that have already been concluded. Only one search certificate was issued on 19th February 2025 on an ongoing matter for plot No. 2408/1/MN. iv) There was hesitation in indicating when the search certificates will be ready but the Registrar indicated that they will be issued progressively instead of waiting for all of them at once. The

No.	Location and Description	Status
		term solution between the three entities has been on-going.
4	East African School of Aviation (EASA), Nairobi County	<ul style="list-style-type: none"> ▪ Land comprising 87 Acres was allocated to EASA through an allotment letter reference number 14723/3 dated 1st July 1998. ▪ Illegal subdivision was undertaken without KCAA's approval and knowledge where L.R No. 9042/638, 9042/639, 9042/640, 9042/641, 9042/642, 9042/643, 9042/644, 9042/645, 9042/664 and 9042/698 were issued to private persons. They were later consolidated into two subdivisions namely L.R No. 9042/664 for 57.10 Acres in favour of KCAA, and L.R No. 9042/800 for 30 Acres jointly to Francis Kagumba Gitonga & Mackdonald Lijodi Makaka T/A Markton Bulk Suppliers, respectively. ▪ The title to the undisputed LR. No. 9042/664 has already been registered under KCAA. KCAA is also in possession of the disputed 30 Acres. ▪ Francis Kagumba Gitonga & Mackdonald Lijodi Makaka T/A Markton Bulk Suppliers sued KCAA on 18th March, 2013 seeking: Permanent injunction restraining KCAA from ingressing, trespassing or from carrying out any construction, building or erecting any structures, selling and/or disposing of or carrying out any operations and/or activities whatsoever or otherwise on 'their' land; General Damages; and Costs of the suit ▪ The matter is being handled by Kipkenda and Company Advocates and through them KCAA seeks: Permanent injunction restraining the Plaintiff from transferring, charging or dealing in any other manner in an attempt to defeat KCAA's interest of the original suit parcel; An order directing the Chief Land Registrar to cancel all titles excised out of the original parcel; and An order directing the Chief Land Registrar to rectify and correct the register and issue in KCAA's name all titles excised out of the original parcel L.R No. 39/I/R.

No.	Location and Description	Status
		<p>measuring 59.78 ha and a Survey Plan for the New Parcel issued with the Land Reference number indicated in the allotment as 227573/13.</p> <ul style="list-style-type: none"> ▪ KCAA has through letters dated 28th April 2022 and 30th June 2023 engaged the Ethics and Anti- Corruption Commission to intervene in recovery of the illegally acquired parcels. KCAA also engaged the Survey of Kenya who surveyed the parcel and noted the illegally acquired parcels in their report and recommended that KCAA pursues recovery of the said parcels. 2.95 Ha was hived off for KeNHA road expansion. The management is also in receipt of a letter from NLC regarding their intention to compulsorily acquire a part of KCAA land along Katani Road for purposes of upgrading to bitumen standards of Syokimau-Katani Road by KURA. The Authority has since fenced the entire 59.78Ha in its possession. <p>Way Forward</p> <ul style="list-style-type: none"> ▪ Register the undisputed parcel in favour of KCAA, excluding the portion excised for KeNHA. ▪ Do a search of the eleven (11) parcels to establish status. ▪ Engage EACC for institution of recovery proceedings. ▪ Engage NLC for purposes of excision of the portion required for upgrading to bitumen standards of Syokimau-Katani Road.
6	Wajir County	<ul style="list-style-type: none"> ▪ The land is approximately 1.158 Ha. A survey of the parcel of land will be conducted in consultation with KFS by Survey of Kenya to ascertain ownership between Kenya Forest Service (KFS) and KCAA.
7	Plot No 405 at Bwagamoyo (Kilifi)	<ul style="list-style-type: none"> ▪ KCAA's predecessor, DCA, purchased this parcel of land (1.423 Ha) from the local community for erection of a flight beacon in Mwakirunge to guide the safe landing of aircraft at Moi International Airport, Mombasa. The Authority has since obtained a title deed

No.	Location and Description	Status
		<ul style="list-style-type: none"> ▪ Prior to issuance of letters of offers to facilitate generation of title deeds for the settlement scheme it was discovered that the entire Ngai Ndeithya plot had been registered under Kenya Wildlife Services as a game reserve. Makueni County has been negotiating with Kenya Wildlife Service and has initiated plans to draw a Land Management Plan for Ngai Ndeithya Game Reserve, geared towards excising 13,000 hectares for human settlement and conservancies. ▪ A consultative forum was held on 28th January 2025 aimed at setting the stage for the development of a Land Use and Management Plan for 21,000-hectare Ngai Ndeithya Game Reserve. The plan would allow the county government to excise 13,000 hectares off the protected area and pave way for issuance of title deeds. A multi-sectoral team has been established and tasked with drafting the management plan within six months. Letters of offers will be issued once Management plan is Gazetted. <p>Current status</p> <ul style="list-style-type: none"> ▪ The Authority is monitoring the progress of the development and gazettment of the management plan by the County Government of Makueni and the Kenya Wildlife Service. Once this is done, it will facilitate issuance of a title deed to the Authority.
11	Central Stores, Nairobi County	<ul style="list-style-type: none"> ▪ The NLC made recommendation on settlement of the issue pursuant to its letter dated 1st February 2019. The Authority filled a suit challenging NLC jurisdiction over the matter. Subsequently, the Board Resolved to adopt the NLC recommendations. The parties entered into a consent on 14th November, 2024, to implement the NLC recommendation. A valuation was jointly undertaken by NLC and Ministry of Lands, Public Works, Housing & Urban Development. The Chairman NLC via letter reference NLC/1/28/6 dated 6th March, 2025 forwarded the Valuation Report (of the valuation carried out to determine the market value as per terms of the consent

2. East African School of Aviation, Nairobi:

The undisputed 57.10 acres are registered under KCAA. A legal suit is pending for the recovery of 30 disputed acres, and KCAA has requested EACC to investigate illegal subdivisions and prosecute perpetrators.

3. Ngai Ndethya Settlement Scheme/161, Mito- Andei:

A survey shows KCAA owns approximately 2.817 acres, not 13 acres. The entire scheme is registered under Kenya Wildlife Services. KCAA is monitoring negotiations between Makueni County and KWS to facilitate title deed issuance. KCAA was monitoring progress of development and gazettelement of the management plan by the County government of Makueni and the Kenya Wildlife Service.

4. Central Stores, Nairobi:

KCAA's Board of Directors accepted and received Ksh355 million as final settlement for the compensation of the property. This was after joint valuation by National Land Commission and the Public Works, Housing & Urban Development.

Committee Observation

1131. The management of KCAA had made progress in recovering parcels of land and were working with the Ethics and Anti-Corruption Commission (EACC) and National Land Commission (NLC) to find missing documents and process titles.

Committee Recommendation

1132. The Committee directs that within thirty (30) days of adoption of this report the Accounting Officer to, place a caution or caveats on the disputed parcels of land occupied by third parties and the caution or caveats be submitted to the OAG.

1133. The Committee directs that within six (6) months of adoption of this report the Accounting Officer to convene an inter-agency collaboration with the relevant stakeholders in relation with land disputes linked with other government agencies and in a bid to find a solution on the ownership status on the contested parcels.

1134. The Committee directs the Accounting Officer to liaise with EACC and NLC in recovering the parcels occupied by non-government agencies.

Flights Departures	Passengers	Air Passenger Service Charge (APSC)	KCAA Percentage	CBK Average Exchange Rate for the financial Years	Amount (Kshs)
International	1,915,079	USD 50	0.2	112.75	2,159,251,573
Local	2,447,967	Kshs. 600	0.3		440,634,060
Expected APSC					

In addition, the schedule of air passengers charge provided for audit verification did not reflect details of the months the revenue related to, thus casting doubt on the completeness of the amount.

1140. In the circumstances, the accuracy and completeness of air passengers service charge of Kshs 1,948,615,345 could not be confirmed.

Management Reponse

1141. The Air Passenger Service Charge (APSC) is a revenue shared between Kenya Civil Aviation Authority (KCAA), Kenya Airports Authority (KAA) and the Tourism Board. This revenue is collected by the Kenya Revenue Authority (KRA) as per the requirements of Section 4A of the Air Passenger Service Charge Act. Under Section 6A of the APSC Act, KRA is required to deposit the funds into a KAA fund established under the Kenya Airports Authority's Act, after deducting the expenses of the KRA for the collection of the charge. KAA computes and transfers KCAA's portion as per the Air Passenger Service Charge (Apportionment) Order 2018. Since KCAA does not actively participate in collection of this revenue, it accounts for this revenue based on actual receipts. The Authority is not able to accrue APSC revenue due to cash flow challenges that may arise in compliance with Regulation 219 (2) issued pursuant to requirements of the Public Finance Management Act, 2012 that requires all regulatory bodies to remit 90% surplus funds to the National Treasury & Economic Planning. Accrual accounting is not possible due to the non-availability of source documents submitted to KRA by airlines in the APSC revenue collection process.

13. Unsupported Rental Revenue

1147. The statement of financial performance reflects rental revenue amount of Kshs 36,469,093 which, as disclosed in Note 18.10 to the financial statement, includes Kshs 33,190,126 earned in five (5) stations. However, the supporting rental revenue schedules for the five stations show revenue amounting to Kshs 31,587,326, resulting in an unexplained variance of Kshs 2,008,948 as detailed below:

Station	Amount as per Financial Statements (Kshs)	Amount as per Supporting Summary (Kshs)	Variance (Kshs)
Embakasi	940,000	938,374	1,626
Nyali	3,690,000	3,555,000	135,000
Miritini	3,952,500	2,596,000	1,356,500
EASA	21,990,700	21,677,952	312,748
Miritini – Non-Staff	2,616,926	2,820,000	203,074
Total	33,190,126	31,587,326	2,008,948

1148. In the circumstances, the accuracy and completeness of rental revenue of Kshs. 36,496,093 could not be confirmed.

Management Response

1149. The supporting summary that was given to the auditor were incomplete hence leading to computation of lower expected revenue than the revenue reported during the financial year. A reconciliation was dully undertaken to attest the amount reported in the financial statements. To ensure that rental revenue and supporting schedules are in congruence, the Authority has put in place a system where monthly returns are received from all stations where the Authority has staff houses. These returns form the basis for raising monthly invoices for each occupied house at the beginning of the month to ensure correct revenue figures are posted into the reporting system (ERP).

Committee Observation

1150. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had carried out reconciliation and the unsupported rental income was included in the financial statement. Further, the management had put in place a system to

to be held between 18 July 2022 and 22 July 2022, which was outside the year under review. Management did not explain why the latter expenditure was accrued in the financial statements, yet the service had not been incurred.

1157. In the circumstances, the accuracy and propriety of remuneration of Directors' expenditure of Kshs 26,728,902 could not be confirmed.

Management Response

1158. The ticket cancellations charges related to tickets that had been issued to board members and for justifiable reasons, there were changes that necessitated a change of traveling date or time. In some cases, the events the board members were meant to participate in got cancelled or pushed forward at short notice and the only option was to cancel the ticket and absorb the cancellation charges.
1159. As regards, the training for the two board members that took place in July 2022, the Authority had planned for the training to take place within 2021/22 financial year, however, the training was rescheduled to take place in July 2022 and the cost was charged the budget for the financial year in which the training had initially been planned for. The expenditure is not money paid to two board members but its training fees for an overseas seminar that the two board members attended. The directors attended the training in July 2022, and payments to them were appropriately charged FY 2022/2023.
1160. The Authority has since ensured that expenditure is charged and posted to the correct financial period.

Committee Observation

1161. The Committee observed that two Board Members attended a training in Dubai from 18th to 22nd July 2022. Supporting documentation, including boarding passes, surrender forms, and invitation letters, were provided. The Committee further observed that the daily subsistence allowance was paid in the Financial Year 2022/2023, while the seminar fee was paid in the Financial Year 2021/2022 since the training had been postponed to Financial Year 2022/2023; hence, the matter stands resolved.

16. Current Receivables from Exchange Transactions

1162. The statement of financial position, and as disclosed in Note 18.24 to the financial statements, reflects current receivables from exchange transactions balance of Kshs 802,505,014, which comprises gross receivables balance of Kshs 1,557,538,275 less provisions of Kshs 755,033,261. However, the following anomalies were noted:

Committee Recommendation

1167. The Committee directs that within six (6) months of adoption of this report, the Accounting Officer of KCAA to convene an interagency collaboration with KAA and KRA with a view to establishing possible solutions to the challenge on disbursement of the Airport Passenger Service Charge and submit a report to the OAG and Parliament.

16.2 Balance due from Kenya Airports Authority

1168. Included in the domestic operator's balance of Kshs1,367,325,370 is a balance of Kshs.20,955,240 due from Kenya Airports Authority (KAA). However, records at KAA indicated that a balance of Kshs 980,066,777 was owed to the Kenya Civil Aviation Authority as at 30 June 2022, resulting in an unexplained variance of Kshs 959,111,537.

1169. In the circumstances, the accuracy and completeness of the balance of Kshs 20,955,240 due from Kenya Airport Authority could not be confirmed.

Management Response

1170. At the time of preparing financial statements for the financial year 2021/22, KCAA was not privy to the third-party information that KAA's financial statements for the same period indicated that they owed KCAA Kshs 980,066,777. When this information was brought to the Authority's attention by the office of the Auditor General, the Authority made a follow up with KAA to obtain complete details on the amount owing. It was realized that the bulk of the amount related to APSC.

1171. KAA computes and remits KCAA's portion of APSC on quarterly basis. KAA had received from KRA APSC for quarter four financial year 2021/22, but had not remitted to KCAA, its portion as at 30th June 2022, hence the amount was reported as owed to KCAA. The Authority reports APSC revenue stream on cash basis as and when received from KAA. This amount was received in the financial year 2022/23 and was reported in the financial statements for that year.

Committee Observations

1172. The Committee observed that there is a need to amend the Air Passenger Service Charge (APSC) Act, Cap 475, to provide for direct remittance of the KCAA share of the APSC by the Kenya Revenue Authority (KRA). Currently, KCAA's share is routed through the Kenya Airports Authority (KAA), which had contributed to delays in fund disbursement.

1,404,943,062 that had been outstanding for more than three (3) years as analysed below:

S/No.	Category	Balance Per Financial Statements (Kshs)	Balance Outstanding for over 3 Years (Kshs)	Proportion
1.	Domestic Operators	1,367,325,370	1,242,467,590	90%
2.	Foreign Operators	163,644,664	152,071,789	93%
3.	Students Debtors	26,568,241	10,403,683	39%
	Total	1,557,538,275	1,404,943,062	

1180. However, and as indicated in Note 18.24 to the financial statements, a provision for bad debts amounting to Kshs 755,033,262, which was an increase of Kshs 198,492,410 from the previous year, was made against current receivables from exchange transactions. The provision allowance is therefore inadequate.

1181. In the circumstances, the accuracy and recoverability of current receivables from exchange transactions, net balance of Kshs 802,505,014, could not be confirmed.

Management Response

1182. The provision for bad and doubtful debts was arrived at based on the analysis of the debtor portfolio as at 30th June 2022. The same was subjected to the formula as indicated in the finance policy and procedures manual for KCAA.

Committee Observation

1183. At the time of examination, the Committee noted that the management of KCAA had a Finance Policy and Procedures Manual to guide the management of bad and doubtful debts. For the year under review, the determination of bad and doubtful debts was based on an analysis of the debtor portfolio.

Committee Recommendation

1184. The Committee directs that within six (6) months of the adoption of this report, the Accounting Officer to liaise with the National Treasury to explore possible avenues for the recovery of the debt owed by Kenya Revenue Authority and Kenya Airways and a progress report on the recovery efforts be submitted to the OAG for verification.

19.2 Lack of Ownership Documents for Lands and Buildings:

1191. The balance of Kshs 17,803,708,412 also includes land and buildings balances of Kshs 11,497,850,000 and Ksh3,222,910,033, respectively. However, as reported previously, ownership documents for thirty-one (31) housing units in Nyali, Mombasa, thirteen (13) housing units in Bamburi, Mombasa, one hundred and thirty-two (132) acres of land at Central Transmitting Station along Mombasa Road, and staff houses in Miritini, Mombasa were not provided for audit. Further, ownership documents for a property at Wajir, a plot at Bwagamoyo Kilifi, a plot at Lokichogio, and plots at Embakasi village were also not provided for audit.

1192. Although Management indicated that preparation of the ownership documents was underway at the Ministry of Lands and Physical Planning, there was no indication on when the process was likely to be completed.

1193. In the circumstances, the ownership of the reported land and buildings balances could not be confirmed.

Management Response

No.	Location and Description	Status
1	Thirty-one (31) housing units at Nyali, Mombasa	<ul style="list-style-type: none"> ▪ There are two parcels of land measuring approximately 1.696ha with 36 houses. These parcels were allocated to DCA by the Government of Kenya after the collapse of the East African Community. ▪ One parcel is registered in the name of Kenya Revenue Authority (KRA) thus there has been a dispute between KRA and KCAA over ownership. KRA claims MN/1/6230 which they have registered under their name whereas MN/2395 belongs to KCAA. A survey of both parcels was conducted recently by Survey of Kenya and the process of registration of MN/2395 and negotiations over MN/1/6230 is underway. ▪ A formal request for an official search has since been lodged with the Chief Registrar, Land Central Registry, This will enable registration of the undisputed parcel.
2	Bamburi Staff Houses,	<ul style="list-style-type: none"> ▪ KCAA engaged the then Kenya Anti- Corruption Commission and now Ethics and Anti- Corruption

No.	Location and Description	Status
		<p>Parcels. The Registrar advised that they first have to issue Certificate of Registration (CR) numbers on the parcels and retrieve the files so as to process the search certificates.</p> <p>iv) KCAA officers camped at the Lands office in Mombasa for two days straight i.e on 18th and 19th February 2025 but encountered difficulties in obtaining the search certificates especially for the matters that have already been concluded. Only one search certificate was issued on 19th February 2025 on an ongoing matter for plot No. 2408/1/MN.</p> <p>v) There was hesitation in indicating when the search certificates will be ready but the Registrar indicated that they will be issued progressively instead of waiting for all of them at once. The KCAA officers were advised to have someone on ground to constantly follow up.</p> <p>Summary Status</p> <ul style="list-style-type: none"> ▪ Follow ups are being made with the Land Registrar to issue the certificates of search to facilitate processing of titles for the parcels of land that had been concluded in court in favour of the Authority. <p>Way Forward</p> <ul style="list-style-type: none"> ▪ Acquisition of the certificates of search for the seven (7) Parcels for submission to NLC for allocation of parcel to KCAA and subsequent issuance of title. ▪ Follow on the one (1) outstanding decree to enable a search and consequent NLC action. ▪ Hearing of the six (6) matters on the dates set till final conclusion. ▪ Erection of signage in each of the eight (8) parcels currently under KCAA possession indicating that they belong to KCAA.
3	Staff houses in Miritini,	<ul style="list-style-type: none"> ▪ The parcel of land is located in Miritini area of Mombasa West mainland along Mombasa-Nairobi Highway,

No.	Location and Description	Status
		<p>construction, building or erecting any structures, selling and/or disposing of or carrying out any operations and/or activities whatsoever or otherwise on 'their' land; General Damages; and Costs of the suit</p> <ul style="list-style-type: none"> ▪ The matter is being handled by Kipkenda and Company Advocates and through them KCAA seeks: Permanent injunction restraining the Plaintiff from transferring, charging or dealing in any other manner in an attempt to defeat KCAA's interest of the original suit parcel; An order directing the Chief Land Registrar to cancel all titles excised out of the original parcel; and An order directing the Chief Land Registrar to rectify and correct the register and issue in KCAA's name all titles excised out of the original parcel L.R No. 39/I/R. ▪ The Chief Land Registrar filed a defence dated 17th April, 2020 confirming that parcel L.R. No. 39/I/R has been and still is the property of KCAA, and that the suit land had never been availed for allocation, alienation or offered for sale. ▪ The Plaintiff produced a letter of allotment dated 1st July, 1998 purportedly issued to Markton Bulk Suppliers but it turned out during hearing that the company was registered on 25th March, 2003 which was five (5) years after the letter of allotment was allegedly issued to it. ▪ There's no record of correspondence file for LR. No. 9042/800 and it was not appearing in the Deed Register. The management is also not able to get records for LR. No. 39/I/R from the Lands Registry. The suit came up for defence hearing on 29th January, 2025 but adjourned upon application by the Attorney General. ▪ The entire property is secured the undisputed parcel (57 acres) is registered under KCAA. A legal suit on recovery of the excised portions LR. Nos 9042/638-645 (30 acres) is pending determination in Court. Matter is awaiting defense hearing.

No.	Location and Description	Status
		<ul style="list-style-type: none"> ▪ Engage NLC for purposes of excision of the portion required for upgrading to bitumen standards of Syokimau-Katani Road.
6	Wajir County	<ul style="list-style-type: none"> ▪ The land is approximately 1.158 Ha. A survey of the parcel of land will be conducted in consultation with KFS by Survey of Kenya to ascertain ownership between Kenya Forest Service (KFS) and KCAA.
7	Plot No 405 at Bwagamoyo (Kilifi)	<ul style="list-style-type: none"> ▪ KCAA's predecessor, DCA, purchased this parcel of land (1.423 Ha) from the local community for erection of a flight beacon in Mwakirunge to guide the safe landing of aircraft at Moi International Airport, Mombasa. The Authority has since obtained a title deed
8	Generator Room Property at Lodwar	<ul style="list-style-type: none"> ▪ The land is approximately 23.22Ha. The Title deed for the land has been obtained by the Authority
9	L.R Nos 9042/26 & 28 at Embakasi Village, Nairobi County	<ul style="list-style-type: none"> ▪ The plot is approximately 0.57212 Ha. A survey has been done and land fenced off by KCAA. ▪ These parcels of land were inherited by DCA (KCAA's predecessor) from East African Common Services Organization. They were initially occupied by the employees of the defunct City Council of Nairobi, but were surrendered and are currently inhabited by KCAA junior staff. ▪ There was dispute as to ownership with the City Council of Nairobi, culminating in High court civil suit No. 185 of 2011, where the City Council conceded ownership to KCAA. A survey was done and land fenced off by KCAA the houses are co-owned between MET and KCAA
10	Ngai Ndeithya Settlement Scheme/161-Mfito-Andei	<ul style="list-style-type: none"> ▪ This land contains Aviation equipment (VOR). The property measures about 13 acres and is close to Tsavo National Park. The parcel was vested in KCAA through Gazette Notice No. 173 of 2006 made on 13th October 2006. A survey conducted by survey of Kenya shows that ownership of approximately 3 Acres as opposed to 13

No.	Location and Description	Status
11	Central Stores, Nairobi County	<ul style="list-style-type: none"> ▪ The NLC made recommendation on settlement of the issue pursuant to its letter dated 1st February 2019. The Authority filled a suit challenging NLC jurisdiction over the matter. Subsequently, the Board Resolved to adopt the NLC recommendations. The parties entered into a consent on 14th November, 2024, to implement the NLC recommendation. A valuation was jointly undertaken by NLC and Ministry of Lands, Public Works, Housing & Urban Development. The Chairman NLC via letter reference NLC/1/28/6 dated 6th March, 2025 forwarded the Valuation Report (of the valuation carried out to determine the market value as per terms of the consent and applicable valuation standards of the leasehold interest free of any encumbrances in L.R 209/14372 as on 25th February, 2024) to KCAA for necessary action. ▪ KCAA is already in receipt of Kshs. 355,000,000.00 (read: Kenya Shillings Three Hundred and Fifty-Five Million) being the returned market value as per NLC valuation and the KCAA Board of Directors has since resolved to accept the payment as full and final restitution.
12	Property L.R No.28192 at Lokichogio	<ul style="list-style-type: none"> ▪ A survey of the parcel of land will be conducted in consultation with Kenya Forest Service (KFS) by Survey of Kenya to ascertain ownership between KFS and KCAA.

Committee Observation

1194. At the time of examination, the Committee noted the Authority was in various stages of recovering land as detailed below: -

a. Thirty-one housing units at Nyali, Mombasa:

Dispute with Kenya Revenue Authority (KRA) over land ownership, survey conducted, and registration of undisputed parcels is underway. KCAA and KRA are in negotiations over ownership of the disputed parcel.

(b) Bamburi Staff Houses, Mombasa:

The parcels of land were registered under 3rd parties; a Gazette Notice issued on 26th November 2010 revoked the titles that had been issued. The

(g) Bwagamoyo, Kilifi:

Title deeds have been obtained by KCAA.

(h) Lodwar:

Title deeds have been obtained by KCAA.

(i) L.R No. 9042/26 &28 Embakasi Village, Nairobi:

Survey done, land fenced off, and a High Court civil suit concluded with the City Council of Nairobi conceding ownership to KCAA.

g. Ngai Ndethya Settlement Scheme/161, Mito- Andei:

A survey shows KCAA owns approximately 2.817 acres, not 13 acres. The entire scheme is registered under Kenya Wildlife Services. KCAA is monitoring negotiations between Makueni County and Kenya Wildlife Service to facilitate title deed issuance. KCAA was keeping track on the progress of the development and gazettelement of the management plan by the County government of Makueni and the Kenya Wildlife Service.

h. Central Stores, Nairobi:

KCAA's Board of Directors accepted and received Ksh355 million as final settlement for the compensation of the property. This was after joint valuation by National Land Commission and the Ministry of Public Works, Housing & Urban Development.

i. LR No. 28192, Lokichogio:

Survey of the land will be conducted in consultation with the Kenya Forest Service to ascertain the ownership between the parties.

1195. The Committee observed that the management of KCAA had made progress in recovering parcels of land and were working with the Ethics and Anti-Corruption Commission (EACC) and National Land Commission (NLC) to find missing documents and process titles.

Committee Recommendation

1196. The Committee directs that within six (6) months upon adoption of this report, the accounting officer of KCAA to process the title for the undisputed 59 acres of the Central Transmitting Station, Mlolongo, and subsequently pursue the repossession and amalgamation of the eleven (11) excised

Management Response

No.	Location and Description	Status
1	<p>Thirty-one (31) housing units at Nyali, Mombasa</p>	<ul style="list-style-type: none"> ▪ There are two parcels of land measuring approximately 1.696ha with 36 houses. These parcels were allocated to DCA by the Government of Kenya after the collapse of the East African Community. ▪ One parcel is registered in the name of Kenya Revenue Authority (KRA) thus there has been a dispute between KRA and KCAA over ownership. KRA claims MN/1/6230 which they have registered under their name whereas MN/2395 belongs to KCAA. A survey of both parcels was conducted recently by Survey of Kenya and the process of registration of MN/2395 and negotiations over MN/1/6230 is underway. ▪ A formal request for an official search has since been lodged with the Chief Registrar, Land Central Registry, this will enable registration of the undisputed parcel.
2	<p>Bamburi Staff Houses, Mombasa County</p>	<ul style="list-style-type: none"> ▪ KCAA engaged the then Kenya Anti- Corruption Commission and now Ethics and Anti- Corruption Commission (EACC) in 2009 to assist in recovery of KCAA parcels that had been registered in third party names. ▪ Through a Gazette Notice No. 15570 dated 26th November 2010, the Registrar of Titles in Mombasa issued notification of revocation of land titles issued to private developers on parcels of land reserved for public purposes. Among them were 14 parcels of land that were reserved for KCAA. ▪ EACC instituted recovery proceedings on behalf of KCAA on 12 parcels of land belonging to KCAA. Two were not registered in any third-party name. ▪ So far 6 matters have been concluded and court orders issued in favor of KCAA. The decrees have been extracted and were forwarded to the Registrar of Titles in Mombasa to be registered as follows. Six (6) matters are still active in court with varied hearing dates.

No.	Location and Description	Status
		<p>KCAA officers were advised to have someone on ground to constantly follow up.</p> <p>Summary Status</p> <ul style="list-style-type: none"> ▪ Follow ups are being made with the Land Registrar to issue the certificates of search to facilitate processing of titles for the parcels of land that had been concluded in court in favour of the Authority. <p>Way Forward</p> <ul style="list-style-type: none"> ▪ Acquisition of the certificates of search for the seven (7) Parcels for submission to NLC for allocation of parcel to KCAA and subsequent issuance of title. ▪ Follow on the one (1) outstanding decree to enable a search and consequent NLC action. ▪ Hearing of the six (6) matters on the dates set till final conclusion. ▪ Erection of signage in each of the eight (8) parcels currently under KCAA possession indicating that they belong to KCAA.
3	<p>Staff houses in Miritini, Mombasa County</p>	<ul style="list-style-type: none"> ▪ The parcel of land is located in Miritini area of Mombasa West mainland along Mombasa-Nairobi Highway, approximately 10 KM from Mombasa Island. The land measures 2.4 hectares and has 124 residential units of various categories and one canteen. ▪ The estate was constructed by the East African Community (EAC) and allocated to the Customs Department (now Kenya Revenue Authority - KRA), Directorate of Civil Aviation-DCA (now Kenya Civil Aviation Authority - KCAA) and Meteorological departments (MET) as follows; Customs Department (KRA)14 Units, Directorate of Civil Aviation (KCAA),80 Units and Meteorological Department (MET) 30 Units. ▪ KRA currently has the title document over the entire parcel of land. Several meetings have been organized to discuss possible joint ownership between KCAA, KRA and Meteorology Department. Consultative meetings for

No.	Location and Description	Status
		<ul style="list-style-type: none"> ▪ The Chief Land Registrar filed a defence dated 17th April, 2020 confirming that parcel L.R. No. 39/I/R has been and still is the property of KCAA, and that the suit land had never been availed for allocation, alienation or offered for sale. ▪ The Plaintiff produced a letter of allotment dated 1st July, 1998 purportedly issued to Markton Bulk Suppliers but it turned out during hearing that the company was registered on 25th March, 2003 which was five (5) years after the letter of allotment was allegedly issued to it. ▪ There's no record of correspondence file for LR. No. 9042/800 and it was not appearing in the Deed Register. The management is also not able to get records for LR. No. 39/I/R from the Lands Registry. The suit came up for defence hearing on 29th January, 2025 but adjourned upon application by the Attorney General. ▪ The entire property is secured the undisputed parcel (57 acres) is registered under KCAA. A legal suit on recovery of the excised portions LR. Nos 9042/638-645 (30acres) is pending determination in Court. Matter is awaiting defense hearing. ▪ The Authority wrote to the Ethics and Anti-Corruption Commission on 24th March 2025 requesting it to investigate the circumstances leading to the illegal subdivisions, to enjoin in the case to support the Authority in the recovery process and to prosecute the perpetrators.
5	<p>Central Transmission Station (CTX) in Mlolongo, Machakos County</p>	<ul style="list-style-type: none"> ▪ The parcel was originally 160acres. The property, however, has been irregularly subdivided and eleven (11) parcels of Land caved out of a portion of the Property, to wit; LR Nos. 25769, 25770, 25771, 25772, 25773, 25774, 25775, 25776, 25777, 25778 and 25779. The subdivision was done without reference to KCAA and a consent was never sought from KCAA before the subdivision.

No.	Location and Description	Status
		aircraft at Moi International Airport, Mombasa. The Authority has since obtained a title deed
8	Generator Room Property at Lodwar	<ul style="list-style-type: none"> ▪ The land is approximately 23.22Ha. The Title deed for the land has been obtained by the Authority
9	L.R Nos 9042/26 & 28 at Embakasi Village, Nairobi County	<ul style="list-style-type: none"> ▪ The plot is approximately 0.57212 Ha. A survey has been done and land fenced off by KCAA. ▪ These parcels of land were inherited by DCA (KCAA's predecessor) from East African Common Services Organization. They were initially occupied by the employees of the defunct City Council of Nairobi, but were surrendered and are currently inhabited by KCAA junior staff. ▪ There was dispute as to ownership with the City Council of Nairobi, culminating in High court civil suit No. 185 of 2011, where the City Council conceded ownership to KCAA. A survey was done and land fenced off by KCAA the houses are co-owned between MET and KCAA
10	Ngai Ndeithya Settlement Scheme/161-Miito-Andei	<ul style="list-style-type: none"> ▪ This land contains Aviation equipment (VOR). The property measures about 13 acres and is close to Tsavo National Park. The parcel was vested in KCAA through Gazette Notice No. 173 of 2006 made on 13th October 2006. A survey conducted by survey of Kenya shows that ownership of approximately 3 Acres as opposed to 13 Acres of land belong to KCAA, hence, SoK recommended further that a verification regarding ownership through a search carried out at the Survey, Land Adjudication and settlement and Land Registry offices located in Kibwezi town. And a cross reference of the same be done at the central registry to confirm the initial allottee of the land with the possibility of initiating a recovery process. The ownership document is yet to be obtained. ▪ As per the Land Adjudication and settlement records in Kibwezi, the parcel size registered for KCAA known as

No.	Location and Description	Status
		<p>NLC/1/28/6 dated 6th March, 2025 forwarded the Valuation Report (of the valuation carried out to determine the market value as per terms of the consent and applicable valuation standards of the leasehold interest free of any encumbrances in L.R 209/14372 as on 25th February, 2024) to KCAA for necessary action.</p> <ul style="list-style-type: none"> ▪ KCAA is already in receipt of Kshs. 355,000,000.00 (read: Kenya Shillings Three Hundred and Fifty-Five Million) being the returned market value as per NLC valuation and the KCAA Board of Directors has since resolved to accept the payment as full and final restitution.
12	Property L.R No.28192 at Lokichogio	<ul style="list-style-type: none"> ▪ A survey of the parcel of land will be conducted in consultation with Kenya Forest Service (KFS) by Survey of Kenya to ascertain ownership between KFS and KCAA.

Committee Observation

1203. At the time of examination, the Committee noted that the Authority was in various stages of recovering land as detailed below: -

1. Bamburi Staff Houses, Mombasa:

- a. The parcels of land were registered under 3rd parties and a Gazette Notice issued on 26th November 2010 revoked the titles that had been issued. The management engaged EACC to assist in the recovery of the 12 parcels registered to 3rd parties and two unregistered parcels.
- b. The court has ruled in favour of KCAA regarding six parcels of land, while the remaining six parcels are still under active litigation. Management is working closely with the EACC to monitor the progress of these cases and to ensure the effective implementation of the court decrees.
- c. The Committee noted that the management of KCAA had encountered non-cooperation from the Lands Office in Mombasa when seeking assistance with land searches related to the concluded cases.

20. Unsupported Gain on Sales of Assets

1208. The statement of financial performance reflects a net gain on sale of assets amount of Kshs 3,384,354, which, as disclosed in Note 18.20 to the financial statements, comprises a gain on sale of assets amount of Kshs 5,057,717 and a loss on sale of assets amount of Kshs 1,673,363. The schedule provided in support of the amount of Kshs 5,057,717 shows a gain of Kshs 602,969 for a Toyota Hilux-D/Cab. However, no cost, accumulated depreciation and net book value were provided in the schedule, and, therefore, it was not possible to confirm how the amount of the gain was arriving at.

1209. In the circumstances, the accuracy of the amount of Kshs 602,969 could not be confirmed.

Management Response

1210. In the financial year 2019-20, the Authority disposed a number of vehicles, among them KBG 524C. However, in effecting the disposal in its ERP system, entries were erroneously made to KBG 522C asset card instead of KBG 524C and in the process a loss on disposal of Kshs 259,000 was reported. Inadvertently, KBG 524C was omitted in the ERP system records. During the financial year ended 30th June 2022, KBG 522C was disposed by the Authority at Kshs 861,969. From the assessment done in the ERP system, the initial loss of Kshs 259,000 that was reported on the financial year 2019-20 was reversed, creating a surplus of Kshs 602,969. The error is regrettable, and this did not affect the financial statements. To avoid a repeat of this error, the Authority has put in place the use of a bar code reader, which ensures the correct capture of assets in the reporting system. To ascertain the completeness of the Fixed Asset Register, an assurance audit on the Fixed Register has been done.

Committee Observations

1211. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management did not refute the fact that entries had erroneously been made resulting in an accounting error that resulted in an unexplained unsupported gain on the sale of a motor vehicle.

1212. The Committee observed that management has since rectified the accounting error which had resulted in an unsupported gain on the sale of a motor vehicle.

1213. The Committee further noted that the Authority had implemented the use of a barcode reader to enhance accurate asset capture in the reporting system.

instances where the Authority got invited to forums at very short notices. Another reason is where operators delayed in submitting amounts payable for international inspections. In all instances the assigned work had to be carried out and the officers travelled for the assignments and made claims. The payment of the claims was compliant with the applicable regulations and circulars. Going forward the Authority will ensure that claims have been eliminated or brought down to a bare minimum.

Committee Observation

1220. The Committee observed from the explanation of the Accounting Officer at the time of examination that the management had provided an analysis of international travel claims for the Financial Year 2021/2022, during which a total of Kshs. 4,625,811 was reimbursed to staff as per the approved policy.

1221. The Committee noted that the Authority was incurring significant losses due to frequent flight cancellations, and that there was no policy in place to address or mitigate such occurrences.

Committee Recommendation

1222. The Committee directs that within six (6) months of adoption of this report, the Accounting Officer to develop a flight cancellation policy and submit it to the OAG for verification.

22. Inaccuracies in the Statement of Cash Flow

1223. The following inaccuracies were noted in the statement of cash flows:

Item	Amount as per Statement of Cash Flows (Kshs)	Amount Recomputed (Kshs)	Variance (Kshs)
Operating Cash Flow before Working Capital Changes	961,160,267	967,928,975	(6,768,708)
Increase in Receivables (Exchange Transactions)	(506,697,745)	(308,206,335)	(198,491,410)
Increase in Employee Benefit Obligation	46,244,427	50,058,518	(3,814,091)

Secretary within three months to the Auditor General with copies to the responsible Cabinet Secretary and the National Treasury.

1229. In the circumstances, Management was in breach of the law.

Management Response

In the 2021/22 financial year, there was uncertainty as to whether the Authority was required to prepare a separate set of financial statements for the Car Loan and Staff Mortgage Funds given the funding models in place. However, the Authority sought clarity from the National Treasury and subsequently, the Authority was able to prepare and submit for audit a separate set of financial statements for Staff Mortgage Scheme for the year ended 30th 2024 in order to comply with this requirement.

Committee Observation

1230. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Accounting Officer had complied with Regulation 221(1) of the Public Finance Management (National Government) Regulations, 2015, by preparing a separate financial statement for the Car Loan and Mortgage Scheme for the year ended 30th June 2024, hence the matter stands resolved.

24. Non-remittance of Statutory Deductions

1231. The statement of financial position reflects the employee benefit obligation balance of Kshs 210,015,456, which, as disclosed in Note 18.32 to the financial statements, includes Kshs 1,098,692 in respect of various payroll deductions that were due but had not been remitted to their respective beneficiaries as analyzed below:

Description	Amount (Kshs)
PAYE Staff	479,303
Payroll Deductions – Cheques	527,182
Easa NHIF	400
Easa PAYE Liability	91,807
Total	1,098,692

1232. In the circumstances, the Authority risks suffering interest and penalties due to non-remittances of statutory deductions.

The Authority is pursuing vesting order from the National Treasury for the land parcel to back up the occupancy with legal documents for the land parcel ownership. A high-level virtual meeting chaired by the Auditor General that brought on board a number of Principal Secretaries observed that lack of ownership of title deeds by state corporations was a cross cutting issue. The meeting therefore resolved to escalate the matter to the Principal Secretary level to be chaired by the Principal Secretary, State Department of Lands to facilitate resolution and availing of appropriate documents to enable the Principal Secretary, the National Treasury to gazette and issue vesting orders to institutions that are procedurally occupying government land in the furtherance of executing their mandates.

1239. Arising from the above challenges affecting most Public Institutions in obtaining Public Land ownership documents, the National Treasury issued National Treasury Circular No. 5 'Acquisition of Title Deeds for Public Institution Land dated 2nd August 2024 to giving guidance on the same. Consequently, the State Department for Lands and Physical Planning formed a dedicated team comprising of technical officers from all Directorates within the State Department to fast track and ease the processes of acquiring ownership documents for Public Institutions Land.

1240. The Authority subsequently nominated an officer to be part of the technical team. The Authority is therefore actively pursuing the acquisition of the ownership documents for all the land assets under its jurisdiction.

Committee Observation

1241. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Accounting Officer did not refute the fact that the Authority did not have title over the land in question.

Committee Recommendations

1242. The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer to consolidate the list of all land owned by the Authority with no Titles and make an application for allocation of the land as per section 12 of the Land Act, Cap 280, and submit a copy of the same to the OAG for verification.

Committee Observation

1247. The Committee observed from the explanation of the Accounting Officer at the time of examination that the dormant accounts were closed and with regards to item 6, the donor will wind up the account upon completion of the project, hence, the matter is resolved.

3. Refundable Deposits from Customers

1248. The statement of financial position reflects refundable deposits from customers amounting to Kshs.167,992,948 as disclosed under Note 30 to the financial statements. The amount includes customer balances totaling Kshs 30,444,617 which date back to between 2011/2012 and 2015/2016 and have remained unclaimed as at 30th June 2021, which raises doubts on the existence and authenticity of the balances.

1249. In the circumstances, the accuracy of refundable deposits from customers balance of Kshs.167,992,948 as at 30 June, 2021 could not be confirmed.

Management Response

1250. The management stated that there were overdue refundable deposits. The applicants for Roadside Development who were required to make refundable deposits were also required to apply for their refunds and provide full bank details to facilitate refunds once they had completed the works as per the approval conditions.

1251. The refundable deposits that were made in the year 2011 that are yet to be refunded relate to cases where the specific customers have not applied for the refund and provided full bank details. Since these are one off clients, their physical locations are unknown. The Authority has enhanced its search for these clients with the intention of obtaining their full bank particulars to facilitate refund. In the event that these efforts fail to bear expected results, the Authority will remit the unclaimed refundable deposits to the Unclaimed Financial Assets and close the matter.

1252. The above exercise registered tremendous success and as at 30th June 2024, the Authority held Kshs 39,747,942 only as customer refundable deposits all of which are current and relate to ongoing activities. However, the Authority was unsuccessful in tracing owners of deposits amounting to Ksh 27,373,209.35, which has since been transferred to the Unclaimed Financial Assets Authority (UFAA) as required by law.

expenses at Kshs.8,133,648,667 (72%) which is an indication of some planned programs were not realized in the year under review.

Management response

1259. The Management stated that the underfunding and under expenditure was a result of the Covid 19 pandemic and as such a number of activities were scaled down, in light of the containment measures issued by the Government.

Committee Observation

1260. The Committee observed at the time of examination that the underperformance was due to COVID-19 restrictions. Further, the unutilized funds were carried forward and utilized in the subsequent period, hence, the matter is resolved.

5. Trade And Other Payables from Exchange Transactions

1261. The statements financial of financial position reflects trade and other payables from exchange transactions balance of Kshs.61,903,313,219 as at 30 June 2021. As in Note 29 to the financial statements. The receivables include development payable is Kshs.53,648,579,024 out of which a further Kshs.30,133,789,406 was in respect of land compensation to various individuals across the country. According to information gathered from the Authority, some of the outstanding compensation relates to roads which are already complete and those that were ongoing. Continuous delay in settling these balances exposes the Authority to litigations and penalties at the expense of the taxpayers which negate the effective use of public funds.

Management Response

1262. The Management stated that these regrettable delays arose due to—
- a) inadequate Exchequer budgetary provisions in the current as well as well as prior financial years;
 - b) delayed receipt of Budgeted Exchequer funds by the Authority in the current as well as prior financial years; and
 - c) in some cases, expiry and exhaustion of Development Partner financing prior to completion of the projects.
1263. In order to ensure that the payables are settled timely and to curtail further delays in payments, the Authority will continue lobbying for additional budgets through the Parent Ministry in subsequent financial years in order to ensure that

1270. The Authority will endeavor to allocate sufficient budgets in subsequent financial years subject to enhanced budget ceilings in order to ensure that all due bills are settled on time.

1271. Further, in order to ensure that the payable is settled timely and to curtail further accrual of interests on delayed payments, the Authority will continue lobbying for additional budgets through the Parent Ministry in subsequent financial years in order to ensure that all the bills are settled. In addition, only critical projects will be initiated for implementation to reduce the budget burden in the future.

1272. The projects with a total cost of Kshs 7,394,903,485 had either stalled or had taken a long time to complete. This was largely occasioned by financial constraints encountered by contractors, incremental weather and the Covid 19 pandemic due to the containment orders issued at the time. However, the projects have since been completed.

Committee Observation

1273. The Committee observed from the explanation of the Accounting Officer at the time of examination that the delays in settling the balances was majorly due to accrued pending bills as a result of inadequate and untimely ex-chequer release which was outside the purview of the Authority.

Committee Recommendation

1274. The Committee recommends that the Accounting Officer should prioritize completing the pending projects before embarking on new projects.

7. Progress of Projects

1275. Physical verification and review of project documents revealed that projects with a total cost of Kshs 7,394,903,485 had either stalled or had taken a long time to complete. Failure to execute works on time impacts negatively on realization of value for money by the citizens. This also contravenes Section 68(1) of the Public Finance Management (National Government) Regulations, 2015, which require an accounting officer for a National government entity, to be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful, authorized; effective, efficient, economical and transparent.

to the other. It was noted that the alternative crossing is about 2KM away.

- (f) The exit and entry at Rukubi underpass have no connection to the service lanes while its drainage at the lower end heads to private school instead of directing to the sloppy areas.

Management Response

1282. The Management stated that some Projects Affected Persons have not been compensated. This is largely due to constrained budgetary appropriations thereby negatively impacting prompt payments to Project Affected Persons. Currently, out of the total awards of Kshs 2,013,493,117 the Authority has to date paid out an amount of Kshs 642,408,700 thus a balance of Kshs 1,371,084,447 due to Project Affected Persons. The Authority has continued to engaging the Parent Ministry for additional resources to enable it to honor the obligations.
1283. As at the time of audit, the service lane had not been provided. However, currently, Karura shopping centre features a functional grade separated interchange with separate entrance and exit ramps on the LHS (going towards Ndenderu) and a combined entry and exit ramp on the RHS, providing access to and from the retail shopping centre.
1284. Ndenderu junction was converted from a full clover leaf interchange to a roundabout due to the need for a massive land and property acquisition that was required. Based on Government Financial outlay, it was agreed during a meeting on project cost appraisal that the junction be improved to a roundabout even as consideration for improvement to a full interchange is left for the future.
1285. Arising out of this consideration, cost appraisal of the project was undertaken which resulted in the reduction of Land Acquisition from **96.648 acres** to **18.7499 acres**, translating into savings on land acquisition of approximately **KShs 7.7 billion**. At Kihara Interchange, Service Road (No. 12) has been constructed on the LHS from Kirangari to Karura which enables local traffic flow. A two-way Service Road (SR12) has been constructed running from Karura on the LHS to the flyover bridge at Kirangari through Route E enabling access to Kibiku.
1286. It is true that no footbridge has been provided at Kibiku/Gathiga Junction. The challenge is on land acquisition to anchor the landings. The Authority has however provided a paved footpath from Aberdare (WK6+350) to the

9. Land Compensation for Nairobi Express Way Operations Centre

1295. During the year under review, the Authority through the National Land Commission paid compensation for land to facilitate the construction of the express way. One of the Project Affected Persons (PAPs) was paid Kshs.1,920,752,959 being compensation for land and improvements as indicated below:-

Area (ha)	Award (Kshs)	Amount Paid (Kshs)
4.0523	1,647,277,792	1,647,277,792
Improvements	273,475,167	273,475,167
	1,920,752,959	1,920,752,959

1296. However, it was not established how the compensation was arrived at as no valuation report for the land was provided for review. In the absence of the valuation report, it could not be confirmed whether the Authority and the citizen in general may not have obtained value for money on this transaction.

Management Response

1297. The Operations Centre for the Nairobi Expressway was planned to be constructed along the Expressway to facilitate Rapid Response Teams when need arose. The preferred location of this facility was along the Eastern Bypass/ Mombasa Road Junction.

1298. It was established that the preferred identified location constituted 5 acres already acquired by the Kenya Urban Roads Authority in 2011 for completion of the Eastern Bypass interchange, construction of Materials Testing Laboratory and Traffic Management Centre. Since KURA had not yet utilized/ developed the land, it was decided that the Authority utilize the land initially acquired and paid for by KURA for construction of the Expressway and the O&M Centre.

1299. In return, the Authority was tasked to acquire alternative land within the vicinity for KURA's use to construct their Materials Testing Laboratory, Traffic Management Centre and 2No complete clovers linking the Eastern Bypass with Mombasa Road. The 4.0523 Ha acquired by the Authority will therefore be utilized by KURA to develop their facilities as indicated above in addition to construction of junctions to improve the efficacy hence reduce the traffic jams along the Eastern Bypass/ Mombasa Road junction.

1300. The National Land Commission (NLC) undertook the valuation as legally mandated in law. After which, NLC forwarded to the Authority a

1306. The expenditure of Kshs. 8,321,118 related to travel expenses for the then Principal Secretary, State Department for Infrastructure and his staff while on official road inspections. The Principal Secretary by law is a member of the Authority's Board.
1307. Effective financial year 2023/24, the Authority is guided by the National Treasury Circular No. 2/2024 dated 27th March 2024 on 'Policy measures to enhance state corporations' revenue generation and expenditure rationalization' that prohibits state corporations from funding operations or purchase of capital items for Ministries, Departments, State Corporations and Agencies and shall endeavor to abide by it.
1308. The management noted the observation that the Authority spent Kshs.11,381,934 on Board of Directors oversees training without justification. The Authority submitted to the Principal Secretary State Department for Infrastructure a Training plan for the Directors complete with the justifications for the intended training. The Principal Secretary/ State Department for Infrastructure approved the plan on 27th October 2021.

Committee Observation

1309. The Committee observed from the explanation of the Accounting Officer at the time of examination that the amount spent on ticket cancellation has been refunded in full and the training was approved by the Principal Secretary, State Department of Infrastructure.
1310. The Committee observes that since the amount on ticket cancellation has been refunded, the matter is resolved.

Committee Recommendation

1311. The Committee recommends that the Accounting Officer should, hence forth avail documents in time in line with section 68 (2) (k) of the Public Finance Management Act, 2012 (Cap 412A)

11. Property, Plant and Equipment

1312. The statement of financial position reflects property, plant and equipment balance of Kshs 675,448,008 as disclosed in Note 26 to the financial statement. However, audit of this expenditure revealed the following unsatisfactory matters:

National Treasury Circular No. 5 'Acquisition of Title Deeds for Public Institution Land dated 2nd August 2024 giving guidance on the same. Consequently, the State Department for Lands and Physical Planning formed a dedicated team comprising of technical officers from all Directorates within the State Department to fast track and ease the processes of acquiring ownership documents for Public Institutions Land.

1320. The Authority subsequently nominated an officer to be part of the technical team. The Authority is therefore actively pursuing the acquisition of the ownership documents for all the land assets under its jurisdiction.

Committee Observation

1321. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Accounting Officer did not refute the fact that the Authority did not have title over the land in question.

Committee Recommendations

1322. The Committee recommends that within six (6) months after adoption of this report, the Accounting Officer to consolidate the list of all land owned by the Authority with no Titles and make an application for allocation of the land for the said titles as provided under section 12 of the Land Act, Cap 280 and submit a copy of the same to the OAG for verification.

12. Unsupported Road Assets Additions

1323. The balance of Kshs. 675,448,008 includes road assets additions amounts of Kshs. 86,942,986. Review of the additions revealed the following unsatisfactory issues;

a. Unsupported Diminution of Profits and Loss of Business

1324. The additions of Kshs 86,942,945,986 include amounts totaling Kshs.6,524,789,256 paid in respect of compensation for diminution of profits and loss of business-to-business people who had erected their business on road reserves. However, supporting documents including evaluation reports, names of the businesses, identification details and nature of businesses were not provided for audit review.

1325. In the circumstances, the propriety of the capitalized expenditure totaling to Kshs.6,524,789,256 could not be confirmed.

reports from the National Lands Commission and shared the same with the Office of the Auditor General.

Committee Observation

1334. The Committee observed from the explanation of the Accounting Officer at the time of examination that the valuation reports from National Lands Commission were availed to the OAG for verification, hence the matter is resolved.

13) Unsupported Payments on Improvements

1335. The additions of Kshs 86,942,945,986 further includes Kshs. 16,356,921,198 paid to persons whose parcels of land were affected by road improvements. However, relevant documents such as evidence of remittances, identification details of persons paid, valuation reports and authenticated reports from local government administration officers, in support of the amounts were not provided for audit review.

1336. In the circumstances, the propriety of the capital expenditure of Kshs.16,356,921,198 could not be confirmed.

Management Response

1337. The management stated that as at the time of audit the Authority had not received any valuation reports and/ or authenticated reports from local government administration offices from NLC for any of the land parcels they acquired for the Authority. The Authority wrote to the National Land Commission requesting them for copies of the supporting documents. The Authority has since obtained the valuation reports from the National Lands Commission and shared the same with the Office of the Auditor General.

Committee Observation

1338. The Committee observed from the explanation of the Accounting Officer at the time of examination that the valuation reports from National Lands Commission were availed to the OAG for verification, hence the matter is resolved.

14) Unsupported Payments on Developments

1339. The additions of Kshs 86,942,945,986 include reimbursements of Kshs.373,519,923 and refund of development of Kshs.Kshs.34,223,170 both totaling to Kshs.407,743,093 paid to affected persons and businesses as

receipt of the requested documents from the NLC, the same will immediately be formally shared.

1346. The Authority has since obtained the valuation reports from the National Lands Commission and shared the same with the Office of the Auditor General.

Committee Observation

1347. The Committee observed from the explanation of the Accounting Officer at the time of examination that the valuation reports from National Lands Commission were availed to the OAG for verification, hence the matter is resolved.

16)Dormant Bank Accounts

1348. The statements of financial position reflect cash and cash equivalents balance of Kshs.13,993,063,067 which, according to bank statements, cashbooks and bank reconciliation statements reviewed and as disclosed in Note 22(a) to the financial statements, include Kshs 128,989,967 relating to dormant bank accounts detailed below, maintained by the Authority for road projects deemed complete but whose, completion certificates had not been issued.

Financial Institution	Amount (Kshs)
1. NCBA Bank-NCTIP	59,353,586
2. NCBA Bank-Timboroa-Eldoret	18,768,445
3. NCBA Bank-Marsabit-Turbi Account	3,226,674
4. NCBA Bank-EATTFP	12,136,917
5. NCBA Bank-KTSSP	7,732,595
6. National Bank-Sirari Corridor	27,771,750
Total	128,989,967

Inclusion of the balances resulted in overstatement of bank balances since they ought to have been surrendered to The National Treasury upon closure of the projects.

1349. In the circumstances, the accuracy of cash and cash equivalents balance could not be confirmed.

1356. The Management stated that the Authority's receivables from KRB was Kshs. 11,865,854,651 instead of Kshs. 10,257,336,897 as reported in KRB books resulting to a variance of Kshs. 1,608,517,754. The correct receivables from KRB as at 30th June 2022 was Kshs. 11,865,854,651 as reported in the Authority's main Financial Statements for year ended 30th June 2022.

1357. The above amount was fully received from KRB after the year end in three tranches as tabulated below.

	Tranche no.	Amount received	Date of receipt
1	1 to 8	20,507,829,433	From 30 th Sept. 2021 to 11 th May 2022
2	9	2,135,912,607	4 th July 2022
3	10	3,948,808,980	8 th July 2022
4	11	5,781,133,064	15 th July 2022
	Total	32,373,684,084	From 30th Sept. 2021 to 15th July 2022

The total amount received against the last 3No. tranches from the Kenya Roads Board sums up Kshs. 11,865,854,651 hence the total RMLF resources of Kshs. 32,373,684,084.

1358. Further, the 2 road agencies namely KURA and KeRRA may have failed to record the same amounts due to KeNHA in respect of shared services at Barabara Plaza as payables in their books of accounts. The Authority had formally advised the two road agencies of the amounts payable to the Authority as soon as they became due.

1359. Both Authorities have since cleared the amounts due with KURA making a payment of Kshs 7,395,231 on 27th October 2022, and KeRRA making a payment of Kshs 8,970,919 on 7th December 2022. These amounts exceed the stated receivables since they include payments for billings after year end.

Committee Observation

1360. The Committee observed from the explanation of the Accounting Officer at the time of examination that the accounts were reconciled and the balances were cleared, hence the matter is resolved.

19) EMPHASIS OF MATTER

a. Contingent Liabilities

1367. Page 46 of the financial statements where the Management has disclosed court cases against the Authority, unclaimed interest on works and land acquisitions and unresolved contractual claims totaling to Kshs.65,707,923,295 (2020-2021: Kshs.13,327,522,598). Although management is of the opinion that the outcome of these litigations and claims were yet to be determined, the Authority's operations would be adversely affected if the liabilities were to crystallise.

Management response

1368. The Management stated that 92% of the contingent liabilities amounting to Kshs 60,314,451,805 relates to on-gong litigation which the Authority is confident of obtaining favorable judgement in many of them.

Committee Observation

1369. The Committee observed that the cases were still active in court

Committee Recommendation

1370. The Committee recommends that, within three (3) months upon adoption of this report, the Accounting Officer should submit a report on the status of the cases to the OAG for verification.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

20) Projects Implementation

i) Delayed Development Projects

a. Construction Of Mamboleo-Miwani-Chemelil-Muhoroni-Kipsitet Road Project

1) Lot 1 (Mamboleo Junction-Miwani)

1371. The contract was awarded at a contract sum Kshs.5,194,524,146 for a period of thirty-six (36) months from 21 September,2021 to September, 2024. As at January, 2023, physical progress of work was at 8% against 35% elapsed time. Total works certified amounted to Kshs.639,452,415 out of which Kshs.296,514,866 had been paid leaving a balance of Kshs.342,937,549. Physical inspection in February, 2023 indicated that the contractor had slowed down works pending payment of the outstanding balance of Kshs.342,937,548.

1377. The Committee observed from the explanation of the Accounting Officer at the time of examination that there was a slow progress on the project due to delayed payments caused by budgetary constraints on the Authority.

Committee Recommendation

1378. The Committee recommends that the accounting officer to prioritize completing the existing projects before embarking on new projects.

20.1.1.1.3Lot 3 (Chemelil- Kipsitet Section)

1379. The contract was awarded at a contract sum Kshs.5,720,767,704 for a period of thirty (30) months from 21 September,2021 with expected completion of April, 2024. As at January, 2023, physical progress of work was at about 4% against 50% elapsed time. Total works certified amounted to Kshs.761,618,903 out of which Kshs.390,400,000 had been paid leaving a balance of Kshs.371,218,903. Physical inspection in February, 2023 indicated that the contractor had slowed down work pending payment of the outstanding balance of Kshs.371,218,903.

1380. In the circumstance the project risks incurring additional costs in form of interest and penalties due to delay in payment of certified work. In addition, delay in implementation of the project has impacted negatively on service delivery to the public.

Management Response

1381. The Management stated that the Contractor has been working under reduced rate of progress since November 2022 due to delayed payment of the certified payments. The current recorded progress of works is at 21% against an elapsed period of 98%. Total works certified amounts to Kshs. 1,267,623,859.98 out of which Kshs. 1,024,481,120.00 has been paid leaving a balance of Kshs. 243,142,739.98.

1382. The Authority continues to engage the National Treasury to obtain an appropriation of adequate budgets to offset the outstanding payments to facilitate continuity of works.

1383. This has however been hampered by downward revision of budgets over the years making budgetary allocations to the three projects consistently inadequate.

1384. The Authority is optimistic that efforts aimed at addressing the Pending Bills challenge will ensure the current hiccup is addressed and resuscitate the

view to seeking enhanced budgetary support to offset the pending bills and enable completion of the ongoing contracts.

1392. Further to the above, the Authority has reduced its uptake of new projects so as to ensure the annual budgetary allocations are concentrated on ongoing works and offsetting pending bills. The Authority is optimistic that the Government is committed to completion of all ongoing Road Projects as catalyst to empowering the bulk of the population and therefore will ensure that more resources are allocated to these projects to ensure their completion.

1393. Currently, Projects financed under the GoK Development vote continue to experience Budgetary Constraints and the Authority has continued to escalate the issue to the Parent Ministry and the National Treasury as regards the same. In FY 2024-2025, the project has been allocated Kshs. 217 Million, which is only 10.8% of the Project cost, with Kshs.15 Million via the GoK Development vote and an additional Kshs. 202 Million vide the Road Maintenance Fuel Levy. The allocation needs to be increased significantly to allow timely completion of the Works.

1394. The current progress on site stands at 38% against 89% time lapsed. During the month of August 2024, the Contractor delivered all of the fabricated superstructure structural steel from China to site The Contractor is ready to remobilize to site subject to availability of funds.

1395. The drenching and rockfill done on the causeway section was to allow for continued passage of traffic during the rainy seasons as the causeway had been previously overtopped. To prevent disruption of the ecosystem, a series of pipe culverts were installed to ensure continued free movement of water between Lake Victoria and Lake Sare.

Committee Observation

1396. The Committee observed from the explanation of the Accounting Officer at the time of examination that there was a slow progress on the project due to delayed payments caused by budgetary constraints on the Authority.

Committee Recommendation

1397. The Committee recommends that the Accounting Officer should prioritize completing the existing project before embarking on new projects.

1403. The Contractor has currently suspended the Works due to outstanding interim payment certificates.

Committee Observation

1404. The Committee observed from the explanation of the Accounting Officer at the time of examination that although the main road section was completed and opened, the works on the service roads are still outstanding.

Committee Recommendation

1405. The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer should expedite finishing the works on the service road section and submit a status report to the OAG.

20.1.1.3 Delayed Contract For Rehabilitation And Improvement Of Uplands-Githunguri-Ruiru (C560) Road

1406. The above contract was awarded to a contractor at contract price of Kshs.3,988,058,395 for a period of 30 calendar months. The source of funding was from the Government of Kenya. The contract period had been extended three times by 250, 120 and 355 days, with expected completion of December, 2021. According to the February, 2023 monthly progress report, the contractor has taken 53.93 months against the initial contract period of 30 months and the work certified was worth 2,459,358,049 or 61.67%. Further, half of the retention of Kshs.98,772,038 has been paid to the contractor due to partial take over between KM. 0+000-KM. 23+900. Further The contractor has not been paid certified works totalling Kshs.155,000,000. which led to suspension of works by the contractor on 29 September, 2022.

1407. In the circumstances, the project risks incurring additional costs in form of interest and penalties due to delay in payment of certified work. In addition, delay in implementation of the project has impacted negatively on service delivery to the public.

Management Response

1408. The Management stated that from February 2023, the progress of works increased by 2.23%, resulting in overall progress of 63.9% as at December 2023. This is remarkably slow progress of works given the Contract period lapsed on 16th December 2023.

1409. Further, the Contractor has been facing internal cash flow challenges and unable to perform the contract. The Authority has issued a notice of

1414. The above anomalies may have impacted negatively on the usage of the by-pass road.

Management Response

1415. The Management stated that some Projects Affected Persons have not been compensated. This is largely due to constrained budgetary appropriations thereby negatively impacting prompt payments to Project Affected Persons. Currently, out of the total awards of Kshs 1,986,684,646 the Authority has to date paid out an amount of Kshs 750,678,366 to Project Affected Persons. The Authority continues to engage the Parent Ministry for additional resources to enable it to honor these obligations.

1416. Further, the management stated that as at the time of audit, the service lane had not been provided. However, currently, Karura shopping centre features a functional grade separated interchange with separate entrance and exit ramps on the LHS (going towards Ndenderu) and a combined entry and exit ramp on the RHS, providing access to and from the retail shopping centre. Ndenderu junction was converted from a full clover leaf interchange to a roundabout due to the need for a massive land and property acquisition that was required. Based on Government Financial outlay, it was agreed during a meeting on project cost appraisal that the junction be improved to a roundabout even as consideration for improvement to a full interchange is left for the future. Arising out of this consideration, cost appraisal of the project was undertaken which resulted in the reduction of Land Acquisition from **96.648 acres** to **18.7499 acres**, translating into savings on land acquisition of approximately **KShs 7.7 billion**.

1417. The Authority reported that at Kihara Interchange, Service Road (No. 12) has been constructed on the LHS from Kirangari to Karura which enables local traffic flow. A two-way Service Road (SR12) has been constructed running from Karura on the LHS to the flyover bridge at Kirangari through Route E enabling access to Kibiku. No footbridge has been provided at Kibiku/Gathiga Junction. The challenge of land acquisition to anchor the landings. The Authority has however provided a paved footpath from Aberdare (WK6+350) to the Kirangari bridge (WK 5+791), on the RHS close to the road to facilitate movement of pedestrians. At Rukubi, an underpass on the LHS connects, SR5, to the now-completed Gatumumu Road, which leads to the Lower Kabete junction allowing vehicles to travel in either direction on the main Western Bypass Road. A lined outfall drain has been constructed from the Rukubi

June, 2022 indicated 5.85% physical progress versus 31% elapsed time. Physical inspection conducted in February, 2023 indicated physical progress of 30.04% against 50.04% elapsed time an indication that the project was behind schedule.

1426. Review of correspondences indicate that the contractor has failed to comply with contract conditions where he was to cover excavated potholes at Km 7+600, Km 12+800, Km 10+800 and Km 16+200 within 48 hours as specified in the contract conditions. There was however no evidence of damages deductions from the contractor despite express authority vide Section 47.1 (b) of the particular conditions of the contract specifying that Kshs.50,000 per month per pothole will be deducted from the contractor as damages for not attending to potholes within 48 hours of excavation. It was further noted that the contractor has been given three notices on slow progress which is an indication of no improvement by the contractor.
1427. In the circumstances, the project may not be executed as scheduled which will impact negatively on realization of value for money by the public

Management response

1428. The Management stated that at the time of physical inspection in February 2023, physical progress was at 30.04% against time elapsed of 50.04% indicating that the project was behind schedule.
1429. There was significant improvement in physical progress noted. As at 31st March, 2023, progress stood at 36% compared to 5.58% as at the date when the last notice of slow progress was issued. It was anticipated that if the Contractor continues with the same pace of work, they will be able to complete the works in time as provided for in the works contract. The potholes were rectified by the Contractor and the deductions for the initial non-compliance amounting to Kshs. 200,000 in line with clause 47.1 (b) of the Contract was applied in IPC No. 4. as liquidated damages.

Committee Observations

1430. The Committee observed from the explanation of the Accounting Officer that the contractor has increased the work pace and there was improvement in physical progress.
1431. The Committee also observed that the potholes were rectified by the Contractor and the deductions for the initial non-compliance amounting to Kshs. 200,000 in line with clause 47.1 (b) of the Contract was applied in IPC No. 4 as liquidated damages.

20.2.3 Performance Based Contract for Maintenance of Junction (B89) Madogo (B89)-Modika (A3) Road

1438. The contract was awarded to a contractor on 30 April, 2020 at a contract sum of Kshs.119,420,356.86 for a period of 24 months. The contract was to be completed on 27 November, 2022. Cumulative amount certified as at the time of audit in February, 2023 was Kshs.46,686,506.98.

1439. The following anomalies were noted during physical inspection.

- (i) There were no signs that the contractor was on site,
- (ii) There were blocked culverts especially in Garissa Town while works was still incomplete.
- (iii) Drainage have dumped garbage and overgrown vegetations,
- (iv) Most road signs had been vandalized,
- (v) De-siltation of drainage and culverts as detailed on the contract was not done in Garissa Town,
- (vi) Between the main bridge separating Garissa town towards Madogo, there are conspicuous and strong erosion of the road side especially the road shoulders and the road reserves have undesirable overgrown vegetation which were supposed to have been cleared as per the contract.

1440. In the circumstances, the project may not be executed as scheduled which will impact negatively on realization of value for money by the public.

Management Response

1441. The Management stated that the contract, KeNHA/RD/RA&CM/3009/2020 commenced works on 28th May 2020 and ended 27th May 2022. The contractor performed well initially but faced various challenges during the implementation of the project. Several initiatives by the Project Team to have the Contractor perform did not bear fruit.

1442. Consequently, it was terminated on 25th August 2022 and the Contractor was charged full liquidated damages of Kshs. 5,971,017.84 and the balance of the contract sum of Kshs. 47,334,974.96 went to the procurement of a new contract. A new contract was procured and has addressed the outstanding project issues.

which is a continuous activity during the duration of the contract in the PBC context.

1450. In the same PBC context the littering cited at km 33 and vegetation at km 41 was addressed. Penalties of Kshs. 675,405.87 was levied for the noted non-compliance as provided for in the contract. As earlier illustrated patchwork to maintain motor ability on this aged pavement is a continuous process and where non-conformity is cited penalties have been instituted.

Committee Observations

1451. The Committee observed from the explanation of the Accounting Officer at the time of examination that the contractor had patched the emerging potholes as well as the damaged guardrails which is a continuous activity during the duration of the contract in the PBC context. Further, the penalties of Kshs. 675,405.87 was levied for the noted non-compliance as provided for in the contract.

1452. The Committee noted that patchwork to maintain motor ability on this aged pavement is a continuous process and where non-conformity is cited penalties are instituted.

1453. The Committee observes that since the potholes were patched, the matter is resolved.

20.2.5 Performance Based Contract for Maintenance of Jn B23/27 Othaya –Jn A 2/B 27 Karatina (B27).

1454. The above contract was awarded to a contractor on 10 March, 2020 at a contract sum of Kshs.49,460,633.20 for a period of 36 Months. Contractor's all risk expiry date is expected on 18 June, 2023. Amount certified for payment as at 31 January, 2023 was Kshs.44,418,053.64. Audit inspection in February, 2023, revealed litters and silt in culverts at Karatina town.

1455. In the circumstances, the contract was not executed which will impact negatively on realization of value for money and service delivery to the public.

Management Response

1456. The Management stated that the Contractor's all risk cover was expiring on 18 June, 2023. Further there were litters and silt in culverts within Karatina town. The culverts were cleared of all blockages. The project team has enhanced supervision to ensure that the contractor continuously clears any culvert blockages that may arise within the current rainy season. Regarding the contractors All Risk insurance cover, Management was confident that the

controlled and the resulting mud is continuously carted away as and when it arises.

Committee Observations

1463. The Committee observed that there was a variation that arose from the need to address the erratic failure witnessed on the road which had threatened to cut off the road which was approved by the Employer.
1464. On the issue of overgrown grass, the Committee observed that the same has since been addressed by the Contractor and the resulting mud is continuously carted away as and when it arises.
1465. The Committee observes that the explanation on the variation is satisfactory and since the contractor has addressed the issue of the overgrown grass, the matter is resolved.

20.2.6 Periodic Maintenance of Ruri – Isiolo.

1466. The tender was awarded at a contract amount of Kshs.682,103,815. The contract commenced on 14 December, 2020 and the initial date for completion was 14 December, 2022. However, at the time of audit inspection, the project was lagging behind schedule with the progress of work at 82.6 percent against over 100%-time lapse.
1467. According to a letter dated 14 December, 2022 by the Regional Director to the contractor, it was noted that on some road pavements, the contractor had used AC material that had failed to meet the minimum laboratory requirements for AC Type 1. The affected sections were Km 13+300 right hand side and Km 15+220 to km 15+770. It was also noted that the above-mentioned irregularity could negatively affect the quality of the affected sections of the road. Several road signage's had been vandalized and the contractor had not been issued with instructions to correct the works.
1468. In the circumstances, the contract execution was not done as scheduled which impacts negatively on realization of value for money and service delivery to the public.

Management Response

1469. The Management stated that the project was behind schedule at the time of audit. However, the contractor requested for extension of time due to supply delays. The merit of the request was evaluated and granted. In addition, the contractor cited three weeks break to allow workers to vote in

Management Response

1476. The Management stated that the non-compliances were attributed to the Contractor's poor performance. The Resident Engineer invited the Contractor for a management meeting 14th February 2023 which highlighted the poor performance and the need to rectify all the shortcomings. As discussed in the management meeting, the Contractor mobilized on site and attended to all the issues raised under close supervision of the REs Team. Further, necessary penalties in terms of deductions were effected to the items that the contractor did not attend to immediately when subsequent IPCs were submitted.
1477. The contractor improved on the works and works were completed and taken over by the Authority following an inspection held on 14th August 2023

Committee Observation

1478. The Committee observed from the explanation of the Accounting Officer at the time of examination that the contractor improved on the works and works were completed and taken over by the Authority following an inspection held on 14th August 2023, hence the matter stands resolved.

20.2.7 Stage Improvement of Nyaru- Iten

1479. Stage improvement of Nyaru-Iten works were awarded at an original contract sum of Kshs.2,418,819,638.75 to commence on 14 November, 2016 for a period of 30 Months with completion date of 13 May, 2019. Later, the works were varied by Kshs.526,630,775.47 to Kshs.2,945,450,414.22 to be completed on 31 March, 2023. As at the time of verification in the month of February, 2023, the certified works were Kshs.2,417,805,863 or 78.5% versus 98.56% elapsed time.
1480. The project has pending bills totalling to Ksh.525,893,208 as at 30 June, 2022 with a risk of incurring additional interest costs and penalties due to delayed payments. The Resident Engineer vide letter dated 10 June, 2022 recommended taking over of works as the contractor had substantially completed the works save for nominal non-permanent works. This would have avoided extension of time as the remaining works would have been done during the defect's liability period. However, instead the contractor was given an extension of time to complete the works by 31 March, 2023.
1481. Delay in paying interim payment certificates has led to excess costs to the project due to interests amounting to Kshs 12,034,734.

engineer's miscellaneous account reflected an amount of Kshs.1,922,337.50 which differed with the detailed analysis amount of Kshs.1,057,507.50 resulting to an unexplained variance of Kshs.864,830.

1490. Similarly, bill No. 25, item no.25-56-003 for cross cutting issues reflected Kshs.3,513,001 and an amount of Kshs.2,953,000 resulting to a variance of Kshs.560,001. Physical verification carried out in February, 2023 revealed a vandalized sign posts at Km 24+200, Km 26+200, Km 27+300 and Km 32, vandalized culvert and drainage works, waste along the drainages and at Km 25 and Km 35+10 the drainage was broken and not properly aligned, the guardrail at Km 31+200 is broken and the shoulders had been swept away at Km 21+300, Km 28 and Km 30-35+10.

1491. In the circumstances, the contract execution was not done as scheduled which impacts negatively on realization of value for money and service delivery to the public.

Management Response

1492. The Management stated that Items 01-80-026A and 25-56-003 of the Bill of Quantities were appraised to cater for critical work items under the contract. Vandalism of road furniture and dumping of waste onto the drains has been a challenge along the Eldoret-Kapsabet road. The region has planned to carry out sensitization forums at market centres along this road aimed at winning support among local residents against this vice.

1493. Shoulder reinstatement to bituminous standards was done under this contract between Km 10+100 – 18+600 & Km 25+900 – 27+340. The Management is packaging comprehensive shoulder reinstatement works in the next contract to be procured in FY 2023/2024.

Committee Observations

1494. The Committee observed at the time of examination that the Accounting Officer did not refute the fact that there was vandalism of road infrastructure.

1495. Further, the Committee observed that the shoulder reinstatement to bituminous standards was done but management is packaging a comprehensive shoulder reinstatement works in the next contract.

Committee Recommendation

1496. The Committee recommends that the Accounting Officer should employ measures to reduce vandalism of road infrastructure, especially including but not limited to sensitization of the issue to the locals.

1501. In the circumstances, the contract execution was not done as scheduled which impacts negatively on realization of value for money and service delivery to the public

Management Response

1502. The Management stated that the side drains were filled with waste and sewer at 0+000 to 0+200 both sides and there were emerging pothole and surface wearing off at Km 9+500 and Km 23+600. Further, there was delay in commencement of works for surface dressing chippings yet the expected progress as per POW was 62.5%. The Instruction 009 for installation of bumps and installation of rumble strips recorded progress of work at 100%.

1503. The Region is in consultation with the relevant authorities in Busia County Government to address the challenge of discharge of sewage into the open drains by the locals at km 0+000 to 0+200 LHS. The blocked side drains were however noted during the monthly formal inspection No. 12 of January 2023 and communicated to the Contractor. Payment reductions were made for the non-complying side drains section pursuant to Clause 2.6.1 of the Performance specifications.

1504. The emerging potholes at km9+500 were noted during the monthly formal inspection No. 12 of January 2023 and communicated to the Contractor. Payment reductions were made for the non-complying section pursuant to Clause 2.6.1 of the Performance specifications. Bill No. 1 item 01-50-020 (purchase of office equipment) is a PC sum. It is a requirement that for PC sums, prior approval to expend the Bill item is usually sought from the Engineer with the details of what is to be purchased well described. As at the time of audit the amount had not been expended hence no detailed appendix could be availed to the auditors.

1505. There was a typo error in Appendix B particularly for item No. 10. where what was in the description column was contradicting what was in the quantity column. The description column quoted 4 items to be purchased while the quantity column quoted 5 items. The purchase was done based on the quantity specified in the BoQ and not the description as clearly highlighted in the RE's Site Instruction No. 4.

Committee Observations

1506. The Committee observed from the explanation of the Accounting Officer at the time of examination that the KENHA Regional office is in consultation with the relevant authorities in Busia County Government to address the

1513. Further to the above, the Authority has reduced its uptake of new projects to facilitate delivery of ongoing works through concentration of its budgetary allocations. In view of aforementioned development, the Authority shall continue to engage National Treasury through the Parent Ministry to enhance the budget ceilings. Further, to ensure that the scheduled completion date is not adversely affected, the Authority has instructed the contractors submit revised program of works.

Committee Observation

1514. The Committee observed that the project stalled due to inadequate funding caused by budgetary constraints on the Authority.

Committee Recommendations

1515. The Committee recommends that the Accounting Officer should prioritize completing the existing project before embarking on new projects.

22 Penalties And Interest on Trade and Other Payables

1516. The statement of financial position reflects trade and other payables balance of Kshs.80,129,104,666 which increased by Kshs.18,225,791,447 from Kshs.61,903,313,219 reported in the previous year.

1517. Further the balance of Ksh 80,129,104,666 as disclosed in Note 28 to the financial statements include development payables balance of Kshs.73,215,936,023 out of which an amount of Kshs.29,675,865,154 relates to outstanding land compensations. According to information gathered from the Authority, some of the outstanding compensations relate to roads which are already complete and those that were ongoing.

1518. In addition, the balance of Ksh 80,129,104,666 include interest and penalties on delayed payments of certified works that had accumulated to Kshs.4,310,303,589 as at 30 June, 2022 which includes Kshs.1,406,526,374 charged during the year under review.

1519. Continuous delay in settling these balances exposes the Authority to litigations and penalties at the expense of the taxpayers which negate the effective use of public funds. Further, value for money of the interest and penalties payable of Kshs.4,310,303,589 was not realized.

3.7 NAIROBI METROPOLITAN AREA TRANSPORT AUTHORITY(NaMATA)

1526. The Nairobi Metropolitan Area Transport Authority (NaMATA) was established by an Executive Order through Legal Notice No.18 of 17TH February 2017 with the main mandate of overseeing the establishment of an integrated, efficient, effective and sustainable public transport system within the Nairobi Metropolitan Area (NMA). The NMA is made up of Kajjado, Kiambu, Machakos, Murang'a and Nairobi City counties. NaMATA's principal objective is to oversee the establishment of a safe, integrated, efficient, effective, and sustainable public transport system within the Nairobi Metropolitan Area.

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1527. The Auditor General gave **an opinion** raising the following concerns.

Other Matter

1. Budgetary Control and Performance

1528. The summary statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.1,134,300,836 and Kshs.602,186,989 respectively resulting to an underfunding of Kshs.532,113,847 or 47% of the budget. Similarly, the Fund spent Kshs.141,180,483 against an approved budget of Kshs.602,186,989 resulting to an under-expenditure of Kshs.466,871,346 or 78% of the budget. Further, the statement does not reflect percentages of underfunding and under-expenditures. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the stakeholders.

Management Response

1529. The Management stated that from the audit query it was indicated that there was a significant variance between the final receipts budget of Kshs. 1,134,300,836 and the actual receipts of Kshs. 602,186,989, resulting in an underfunding of Kshs. 532,113,847 or 47%. The actual expenditure amounted to Kshs. 141,180,783 against an approved expenditure budget of Kshs. 602,186,989, resulting in an under expenditure of Kshs. 466,871,346 or 78%.

1530. The Statement of Comparison of Budget and Actual Amounts did not disclose the percentages of underfunding and under expenditure, which has since been noted for correction in future financial reporting to enhance transparency and ease of analysis.

Management Response

1537. The Management stated that it acknowledges the audit observation regarding the receivables from non-exchange transactions amounting to Kshs. 7,797,824, as reflected in the Statement of Financial Position. This amount represents outstanding imprests that were due for surrender as of 30 June 2020 but remained unaccounted for as at the end of the financial year.

1538. Further two officers were issued with additional imprests without having accounted for their previous imprests, contrary to the provisions of Section 92(4)(b) and 92(5) of the Public Finance Management (National Government) Regulations, 2015.

1539. Management recognizes this lapse as a breach of established financial regulations and internal control procedures. The following remedial actions were initiated:

- i) Review of Imprest Procedures: Internal imprest management procedures have since been reviewed and strengthened. A control checklist has been introduced to ensure no new imprests are issued without full accountability for any prior advances.
- ii) The affected officers have since surrendered the imprests issued.

Committee Observation

1540. The Committee observed from the explanation of the Accounting Officer at the time of examination that the imprest had already been surrendered by the imprest holders hence the matter is resolved.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3. Non-Compliance With Regulations on Imprest

1541. The statement of financial position and as disclosed in Note 14 to the financial statements, reflects receivables from non-exchange transactions balance of Kshs. 490,200 relating to outstanding imprest due from one officer of the Authority. However, the imprest has been outstanding for over one-year. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

Committee Observation

1550. The Committee observed from the explanation of the Accounting Officer that the accounting error occurred as a result of consumables inclusion in the property, plant and equipment in the financial statement. However, no evidence was availed by the Management to support this explanation.

Committee Recommendation

1551. The Committee directs that within three (3) months of adoption of this report, the Accounting Officer to submit a list of consumables amounting to Kshs. 541,143 to the OAG for verification.

5. Use Of Goods and Services

1552. The statement of financial performance and as disclosed in Note 7 to the financial statements reflects use of goods and services amounting to Kshs.74,975,748. Review of the expenditure records revealed the following anomalies:

5.1 Irregular Domestic Travel and Subsistence Expenditure

1553. Disclosed in Note 7 to the financial statements is expenditure on domestic travel and subsistence allowance amounting to Kshs.30,905,076. The expenditure includes amounts totaling Kshs.7,443,400 and Kshs.3,400,400 incurred on facilitation of officers from the State Department for Housing and Urban Development and on a retreat of a Parliamentary Committee respectively. No explanation on why the expenditure was charged to the Authority yet the State Department and the Parliamentary Service Commission have respective allocated budgets to cater for their activities.

1554. In addition, amounts totaling to Kshs. 11,496,731 were paid to two officers on various dates and whose details on the nature of the activities undertaken were not provided.

1555. In the circumstances, the accuracy and completeness of the domestic travel and subsistence expenditure amounting to Kshs.30,905,076 could not be confirmed.

Management response

1556. The management acknowledged the observation regarding the domestic travel and subsistence allowance expenditure totaling Kshs. 30,905,076 as disclosed in Note 7 to the financial statements. Specifically, this includes Kshs.

1563. The air ticket expenses were correctly recorded as part of foreign travel costs. The balance of Kshs. 932,680 relates to subsistence allowances paid directly to officers undertaking official assignments abroad.

Committee Observation

1564. The Committee observed from the explanation of the Accounting Officer at the time of examination that the Accounting Officer availed boarding passes and payment warrants supporting the foreign travel, hence the matter is resolved.

6 Irregular Hospitality Supplies and Services

1565. Included in the use of goods and services expenditure is Kshs.11,053,210 in respect of hospitality supplies and services out of which amounts totaling Kshs. 1,982,800 were in favor of officers from the for-State Department for Housing and Urban Development on various dates for hospitality services. No explanation on why the expenditure was charged to the Authority yet the State Department has an allocated budget to cater for activities of its officers. In addition, amounts totaling to Kshs. 1,999,220 were paid to an officer on various dates but whose details of activities undertaken were not provided.

1566. In the circumstances, the accuracy and completeness of the hospitality supplies and services expenditure could not be confirmed.

Management Response

1567. The Management acknowledged the observation regarding the hospitality supplies and services expenditure amounting to Kshs. 11,053,210 as part of the Authority's use of goods and services. This includes Kshs. 1,982,800 incurred on hospitality services for officers from the State Department for Housing and Urban Development and Kshs. 1,999,220 paid to an officer, for which supporting details of the activities undertaken were not readily available.

1568. The expenditure in favour of State Department officers was incurred in the context that the officers were on secondment and were engaged in activities directly related to the Authority's programs and aligned to the Authority's mandate. Regarding the payments made to the officer totaling Kshs. 1,999,220, the management confirms that all supporting documentation, including approved memos, imprest warrants, and surrender registers has since been submitted for audit review.

REPORT ON LAWFULLNESS AND EFFECTIVE USE OF PUBLIC RESOURCES

7. Unapproved Over Expenditure

1575. The statement of comparison of budget and actual amounts reflects final recurrent expenditure budget and actual on comparable basis of Kshs.80,000,000 and Kshs. 111,174,112 respectively resulting in an over-expenditure of Kshs.31,174,112 or 39% of the budget. Similarly, the Authority spent Kshs.2,491,693,105 on capital or development expenditure against an approved budget of Kshs.700,000,000 resulting to an over-expenditure of Kshs. 1,791,693,105 or 256% of the budget. Management did not provide the approval for the over-expenditure of Kshs. 1,822,867,217.

1576. In the circumstances, Management was in breach of the law.

Management Response

1577. The Management acknowledged the audit observation regarding the over-expenditure on both recurrent and capital (development) budgets as reflected in the Statement of Comparison of Budget and Actual Amounts. Specifically, recurrent expenditure exceeded the approved budget of Kshs. 80,000,000 by Kshs. 31,174,112 (39%), and capital expenditure exceeded the approved allocation of Kshs. 700,000,000 by Kshs. 1,791,693,105 (256%), resulting in a total over-expenditure of Kshs. 1,822,867,217 for which no approval documentation was initially provided.

1578. The significant variance in capital expenditure was primarily due to a shift from cash-based accounting to the accrual basis. Initially, the figure was recognized after cash had been paid to the contractor, and not the value of the work that was certified comprising of IPC 02, 03, 04 and 05. By preparing the financial statements on an accrual basis, the value of work certified had to be recognized, and hence, the unpaid amount becomes an amount payable.

1579. The recurrent expenditure overrun was supported by an approval through the office of the PS Housing is allowed by allowed by Section 43(2) of the Public Finance Management Act to reallocate appropriate funds to or from a program or a sub-vote.

1586. In the circumstances, the project risks incurring additional unquantified cost in form of interest and penalties due failure to settle invoiced bills and value for money on resources already incurred on the project could not be confirmed.

Management Response

1587. The Management stated that the contract for the Design and Build Project for the Bus Rapid Transit (BRT) Facilities along the Thika Superhighway Corridor between NaMATA and Stecol Corporation SMEDI – Joint Venture was signed on 6th July 2020, with a duration of 18 months and a contract value of Kshs. 5,575,071,799. However, in subsequent financial years, the development budget allocations for the project were reduced from Kshs 1,050,000,000 to zero. This resulted in a significant accumulation of pending bills and has led to the suspension of works by the contractor. The Authority has made multiple written appeals to both the National Treasury and the National Assembly for additional funding, and the matter remains under consideration.

Committee Observation

1588. The Committee observed at the time of examination that the stalled implementation of the Bus Rapid Transport (BRT) Line 2 Project was due to budgetary constraints.

Committee Recommendations

1589. The Committee recommends that the Accounting Officer should prioritize completing this project before embarking on new projects.

9. Irregular Payment of Acting Allowances

1590. The statement of financial performance reflects employee costs amounting to Kshs.23,542,883 as reflected in Note 8 to the financial statements. During the year under review, the Authority incurred Kshs.23,028,883 on acting allowances for staff deployed to the Authority in an acting capacity from the State Departments and the Counties within the Metropolitan Area. Most of these staff were deployed in the Authority in the year 2017 and therefore have been on acting capacity for over four (4) years contrary to the recommendation of Human Resource Policies and Procedures Manual for the Public Service, May, 2016 that stipulates that acting allowance should not be payable to an officer for more than six (6) months.

Committee Recommendations

1598. The Committee directs that within three (3) months of adoption of this report, the Accounting Officer to submit the Board resolution extending the contracts and provide a response to non-payment of income tax to the OAG.

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

10. Composition Of the Board of Directors

1599. Review of composition of the current Board of Directors indicates that it does not include three (3) independent persons who are to be appointed by virtue of their knowledge and experience in transport, law, intelligent transport systems, civil engineering, traffic engineering, economics, urban design, planning and management or any other relevant field as required by Section 8(1)(f) of the Nairobi Metropolitan Area Transport Authority Order, 2017.

1600. In the circumstances, the overall governance and risk management practices may not be effective.

Management Response

1601. The Management stated that the NaMATA Board consists of 12 members, three (3) of whom are independent members appointed by the Nairobi Metropolitan Area Council. The appointment of the three (3) independent Board Members made by the Nairobi Metropolitan Area Council was challenged vide Petition No. E031 of 2021 whereby the court impugned their appointment by quashing the Gazette Notice vol. CXXIII No. 42 No. 1714 dated 5th February 2021 through a judgment delivered on 21st September 2021.

1602. The composition of 9 members meets the quorum threshold stipulated in Section 8(1) of the State Corporations Act to conduct Board business, which requires at least two-thirds of the total number of members of a Board or the number nearest to but not less than two-thirds. However, the Board has been properly constituted after the appointment of three new independent directors vide Gazette notice Vol. CXXV- No. 170 dated 20th July 2023.

Committee Observation

1603. The Committee observed from the explanation of the Accounting Officer at the time of examination that there was a court moratorium in place at the time of audit that hindered the appointment of the three Directors. However,

Management response

1611. The Management acknowledged the observations regarding the manual management of financial and accounting records. The key financial documents, including ledgers, trial balances, budgets, and financial statements, have historically been prepared manually. This approach increases the risk of human error and potential data manipulation.
1612. The Management further took note of the concern raised regarding the lack of evidence for information protection and data backup systems. Ensuring the integrity, confidentiality, and availability of financial data is of utmost importance to the Authority.
1613. The transition to a computerized accounting system has been fully planned. The Authority has selected a vendor and is in the final stages of implementation.

Committee Observation

1614. The Committee observed from the explanation of the Accounting Officer that the management had procured a vendor to automate the system and plan to migrate to the system in July 2025.

Committee Recommendation

1615. The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer should submit a report on the status of the automation to the OAG.

13. Failure To Update the Authority's Asset Register

1616. Review of the asset register provided for audit revealed that assets procured during the period between 1 January, 2022 and 30 June, 2022 had not been updated. Further, the asset register did not include the assets' serial number(s) or tag number(s) for identification as required by the Public Procurement and Asset Disposal Regulations, 2020.
1617. In the circumstances, the Authority's operating environment may not be effective in ensuring the control, accuracy and security of the assets.

Management Response

1618. The Management stated that assets procured between 1 January 2022 and 30 June 2022 had not been updated in the register at the time of the audit. The omission of serial numbers and tag numbers for identification purposes

under review, during which development allocations were reduced to zero. As a result, the Authority was unable to meet its financial obligations as scheduled, leading to the suspension of works by the contractor.

1624. The management has made several formal requests to the National Treasury and the National Assembly for additional funding but adequate allocations have not yet been provided.

Committee Observation

1625. The Committee observed from the explanation of the Accounting Officer that the long trade and other payables was due to budgetary constraints.

Committee Recommendations

1626. The Committee recommends that the accounting officer should prioritize completing the projects before embarking on new projects.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

15. Unapproved Expenditure

1627. Management did not provide approvals for reallocation of funds from The National Treasury contrary to Regulation 44 (2) of the Public Finance Management (National Government) Regulations, 2015 which provides that National Government entities shall execute their approved budgets based on the annual appropriation legislation, and the approved annual cash flow plan. In the circumstances, Management was in breach of the law.

Management Response

1628. The Management acknowledged the observation regarding the reallocation of funds and the requirement for documented approval from the National Treasury in accordance with Regulation 44(2) of the Public Finance Management (National Government) Regulations, 2015. However, contrary to the assertion, the budget reallocation was duly approved by the National Treasury.

Committee Observation

The Committee observed at the time of the examination that the management provided a budget approval letter from the Cabinet Secretary, hence the matter stands resolved.

1633. In the circumstances, the project risks incurring additional costs in the form of interests and penalties due failure to settle invoiced bills while value for money on resources already incurred on the project could not be confirmed.

Management Response

1634. The Authority acknowledged the audit observation regarding the stalling of the Bus Rapid Transit (BRT) project, with works-in-progress amounting to Kshs. 3,099,238,164 as at the time of audit. The suspension of works from 11 January 2022 was due to delayed payments for certified works, resulting from constrained development budget allocations during the period under review.

1635. The Interim Payment Certificate (IPC) No. 05A raised by the contractor amounting to Kshs. 754,503,479 as interest on delayed payments is noted and has been disclosed under contingent liabilities in the financial statements.

1636. During the 2022/2023 financial year, there was no specific budgetary allocation for the project despite the existence of pending certificates due to the rationalization of development expenditures. This challenge has been communicated to the National Treasury and the National Assembly through multiple formal requests for additional funding, but sufficient allocations have yet to be provided. The Authority is cognizant of the risks associated with continued delays in settling certified works, including the accumulation of interest and potential penalties, which may lead to increased project costs and strain public resources.

1637. To address this, the Authority is engaging The National Treasury and The National Assembly to seek urgent financial support and to prioritize the settlement of outstanding obligations.

Committee Observation

1638. The Committee noted the stalled implementation of Bus Rapid Transport (BRT) Line 2 Project was due to budgetary constraints.

Committee Recommendations

1639. The Committee recommends that the Accounting Officer should prioritize completing this project before embarking on new projects.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT – FOURTH SESSION – 2025
DIRECTORATE OF AUDIT, APPROPRIATIONS & GENERAL-PURPOSE COMMITTEES

ADOPTION SCHEDULE

THIRD REPORT OF PIC – COMMERCIAL AFFAIRS & ENERGY ON EXAMINATION OF
THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF
THE FOLLOWING STATE CORPORATIONS:

- I. Kenya National Highways Authority (KeNHA) – (FY 2020/21 - 2021/22)
- II. Kenya Rural Roads Authority (KeRRA) – (FY 2020/21 - 2021/22)
- III. Kenya Urban Roads Authority (KURA) – (FY 2020/21- 2021/22)
- IV. Kenya Ports Authority (KPA) for the FY 2019/2020 to 2020/2021
- V. Kenya Civil Aviation Authority (KCAA) for the FY 2018/2019 to 2021/2022
- VI. Nairobi Metropolitan Area Transport Authority (NaMATA) for the FY 2019/2020 to 2021/2022
- VII. LAPSSET Corridor Development Authority for the FY 2019/2020 to 2021/2022

DATE:.....18/09/2025.....

	NAMES	SIGNATURE
1.	Hon. David Pkosing, CBS, M.P - Chairperson	
2.	Hon. Dr. John Ariko Namoit, M.P. – Vice Chairperson	
3.	Hon. Dr. Adan Keynan Wehliye, CBS, M.P	
4.	Hon. Festus Mwangi Kiunjuri, EGH, M.P	
5.	Hon. Sarah Paulata Korere, M.P	
6.	Hon. Dr. Babu Owino Paul Ongili, M.P	
7.	Hon. Dr. Beatrice Adagala, M.P	
8.	Hon. Esther Muthoni Passaris, M.P.	
9.	Hon. Paul Kahindi Katana, M.P	
10.	Hon. Betty Njeri Maina, M.P	
11.	Hon. Charo Kazungu Tungule, M.P	
12.	Hon. David Kiplagat M.P.	
13.	Hon. Duncan Mathenge Maina, M.P	
14.	Hon. Ronald Kamwiko Karauri, M.P	
15.	Hon. Yusuf Mohamed Farah, M.P	

**MINUTES OF THE 38TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY 18TH SEPTEMBER,
2025 AT BAOBAB CONFERENCE ROOM, SERENA BEACH RESORT & SPA AT 3:00
P.M.**

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. David Pkosing, CBS, M.P | - | Chairperson |
| 2. Hon. Dr. John Ariko Namoit, M.P. | - | Vice Chairperson |
| 3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P | | |
| 4. Hon. Sarah Paulata Korere, M.P | | |
| 5. Hon. Dr. Babu Owino Paul Ongili, M.P | | |
| 6. Hon. Dr. Beatrice Adagala, M.P | | |
| 7. Hon. Esther Muthoni Passaris, M.P. | | |
| 8. Hon. Paul Kahindi Katana, M.P | | |
| 9. Hon. Betty Njeri Maina, M.P | | |
| 10. Hon. Charo Kazungu Tungule, M.P | | |
| 11. Hon. David Kiplagat M.P. | | |
| 12. Hon. Duncan Mathenge Maina, M.P | | |

ABSENT WITH APOLOGIES

1. Hon. Festus Mwangi Kiunjuri, EGH, M.P
2. Hon. Ronald Karauri, M.P
3. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

National Assembly Secretariat

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Isabella Mwembi | - | Clerk Assistant III |
| 4. Dr. Benjamin Ngimor | - | Principal Fiscal Analyst |
| 5. Ms. Angela Musau | - | Legal Counsel II |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Mr. Amos Tindi | - | Hansard Reporter II |
| 8. Ms. Deborah Mupusi | - | Media Relations Officer |
| 9. Ms. Mercyln Kerubo | - | Audio Officer |
| 10. Ms. Juliet Minayo | - | Office Assistant |
| 11. Ms. Roselyne Ndegi | - | Serjeant At Arms |

Office of The Auditor General

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| Mr. Daniel Kuria | - | Officer |
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MIN.NO.NA/PIC-CA&E/2025/186: ADJOURNMENT

There being no other business, the meeting was adjourned at 4.09 p.m. The next meeting will be held on notice.

Signed:



.....
HON. DAVID PKOSING, CBS, M.P.
Chairperson

Date: 18/9/2025

**MINUTES OF THE 37TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY 18TH SEPTEMBER,
2025 AT BAOBAB CONFERENCE ROOM, SERENA BEACH RESORT & SPA AT
10:00 A.M.**

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. David Pkosing, CBS, M.P | - | Chairperson |
| 2. Hon. Dr. John Ariko Namoit, M.P. | - | Vice Chairperson |
| 3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P | | |
| 4. Hon. Sarah Paulata Korere, M.P | | |
| 5. Hon. Dr. Babu Owino Paul Ongili, M.P | | |
| 6. Hon. Dr. Beatrice Adagala, M.P | | |
| 7. Hon. Esther Muthoni Passaris, M.P. | | |
| 8. Hon. Paul Kahindi Katana, M.P | | |
| 9. Hon. Betty Njeri Maina, M.P | | |
| 10. Hon. Charo Kazungu Tungule, M.P | | |
| 11. Hon. David Kiplagat M.P. | | |
| 12. Hon. Duncan Mathenge Maina, M.P | | |

ABSENT WITH APOLOGIES

1. Hon. Festus Mwangi Kiunjuri, EGH, M.P
2. Hon. Ronald Karauri, M.P
3. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

National Assembly Secretariat

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Isabella Mwembi | - | Clerk Assistant III |
| 4. Dr. Benjamin Ngimor | - | Principal Fiscal Analyst |
| 5. Ms. Angela Musau | - | Legal Counsel II |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Mr. Amos Tindi | - | Hansard Reporter II |
| 8. Ms. Deborah Mupusi | - | Media Relations Officer |
| 9. Ms. Mercyln Kerubo | - | Audio Officer |
| 10. Ms. Juliet Minayo | - | Office Assistant |
| 11. Ms. Roselyne Ndegi | - | Serjeant At Arms |

Office of The Auditor General

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| Mr. Daniel Kuria | - | Officer |
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MINUTES OF THE 36TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY 17TH
SEPTEMBER, 2025 AT BAOBAB CONFERENCE ROOM, SERENA BEACH RESORT
& SPA AT 3:00 P.M.

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. David Pkosing, CBS, M.P | - | Chairperson |
| 2. Hon. Dr. John Ariko Namoit, M.P. | - | Vice Chairperson |
| 3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P | | |
| 4. Hon. Sarah Paulata Korere, M.P | | |
| 5. Hon. Dr. Babu Owino Paul Ongili, M.P | | |
| 6. Hon. Dr. Beatrice Adagala, M.P | | |
| 7. Hon. Esther Muthoni Passaris, M.P. | | |
| 8. Hon. Paul Kahindi Katana, M.P | | |
| 9. Hon. Betty Njeri Maina, M.P | | |
| 10. Hon. Charo Kazungu Tungule, M.P | | |
| 11. Hon. David Kiplagat M.P. | | |
| 12. Hon. Duncan Mathenge Maina, M.P | | |

ABSENT WITH APOLOGIES

1. Hon. Festus Mwangi Kiunjuri, EGH, M.P
2. Hon. Ronald Karauri, M.P
3. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

National Assembly Secretariat

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Isabella Mwembi | - | Clerk Assistant III |
| 4. Dr. Benjamin Ngimor | - | Principal Fiscal Analyst |
| 5. Ms. Angela Musau | - | Legal Counsel II |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Mr. Amos Tindi | - | Hansard Reporter II |
| 8. Ms. Deborah Mupusi | - | Media Relations Officer |
| 9. Ms. Mercyln Kerubo | - | Audio Officer |
| 10. Ms. Juliet Minayo | - | Office Assistant |
| 11. Ms. Roselyne Ndegi | - | Serjeant At Arms |

Office of The Auditor General

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| Mr. Daniel Kuria | - | Officer |
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**MINUTES OF THE 35TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY 17TH
SEPTEMBER, 2025 AT BAOBAB CONFERENCE ROOM, SERENA BEACH RESORT
& SPA AT 10:00 A.M.**

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. David Pkosing, CBS, M.P | - | Chairperson |
| 2. Hon. Dr. John Ariko Namoit, M.P. | - | Vice Chairperson |
| 3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P | | |
| 4. Hon. Sarah Paulata Korere, M.P | | |
| 5. Hon. Dr. Babu Owino Paul Ongili, M.P | | |
| 6. Hon. Dr. Beatrice Adagala, M.P | | |
| 7. Hon. Esther Muthoni Passaris, M.P. | | |
| 8. Hon. Paul Kahindi Katana, M.P | | |
| 9. Hon. Betty Njeri Maina, M.P | | |
| 10. Hon. Charo Kazungu Tungule, M.P | | |
| 11. Hon. David Kiplagat M.P. | | |
| 12. Hon. Duncan Mathenge Maina, M.P | | |

ABSENT WITH APOLOGIES

1. Hon. Festus Mwangi Kiunjuri, EGH, M.P
2. Hon. Ronald Karauri, M.P
3. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

National Assembly Secretariat

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Isabella Mwembi | - | Clerk Assistant III |
| 4. Dr. Benjamin Ngimor | - | Principal Fiscal Analyst |
| 5. Ms. Angela Musau | - | Legal Counsel II |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Mr. Amos Tindi | - | Hansard Reporter II |
| 8. Ms. Deborah Mupusi | - | Media Relations Officer |
| 9. Ms. Mercyln Kerubo | - | Audio Officer |
| 10. Ms. Juliet Minayo | - | Office Assistant |
| 11. Ms. Roselyne Ndegi | - | Serjeant At Arms |

Office of The Auditor General

- | | | |
|------------------|---|---------|
| Mr. Daniel Kuria | - | Officer |
|------------------|---|---------|

**MINUTES OF THE 34TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 16TH SEPTEMBER,
2025 AT BAOBAB CONFERENCE ROOM, SERENA BEACH RESORT & SPA AT 3:00
P.M.**

PRESENT

- | | |
|---|-------------------------|
| 1. Hon. David Pkosing, CBS, M.P – | Chairperson |
| 2. Hon. Dr. John Ariko Namoit, M.P. – | Vice Chairperson |
| 3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P | |
| 4. Hon. Sarah Paulata Korere, M.P | |
| 5. Hon. Dr. Babu Owino Paul Ongili, M.P | |
| 6. Hon. Dr. Beatrice Adagala, M.P | |
| 7. Hon. Esther Muthoni Passaris, M.P. | |
| 8. Hon. Paul Kahindi Katana, M.P | |
| 9. Hon. Betty Njeri Maina, M.P | |
| 10. Hon. Charo Kazungu Tungule, M.P | |
| 11. Hon. David Kiplagat M.P. | |
| 12. Hon. Duncan Mathenge Maina, M.P | |

ABSENT WITH APOLOGIES

1. Hon. Festus Mwangi Kiunjuri, EGH, M.P
2. Hon. Ronald Karauri, M.P
3. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

National Assembly Secretariat

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Isabella Mwembi | - | Clerk Assistant III |
| 4. Dr. Benjamin Ngimor | - | Principal Fiscal Analyst |
| 5. Ms. Angela Musau | - | Legal Counsel II |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Ms. Deborah Mupusi | - | Media Relations Officer |
| 8. Ms. Mercyln Kerubo | - | Audio Officer |
| 9. Ms. Juliet Minayo | - | Office Assistant |
| 10. Ms. Roselyne Ndegi | - | Serjeant At Arms |

Office of The Auditor General

Mr. Daniel Kuria - Officer

The National Treasury

Ms. Catherine Nzioki - Officer

**MINUTES OF THE 33RD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 16TH SEPTEMBER,
2025 AT BAOBAB CONFERENCE ROOM, SERENA BEACH RESORT & SPA AT
10:00 A.M.**

PRESENT

- | | |
|---|-------------------------|
| 1. Hon. David Pkosing, CBS, M.P – | Chairperson |
| 2. Hon. Dr. John Ariko Namoit, M.P. – | Vice Chairperson |
| 3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P | |
| 4. Hon. Sarah Paulata Korere, M.P | |
| 5. Hon. Dr. Babu Owino Paul Ongili, M.P | |
| 6. Hon. Dr. Beatrice Adagala, M.P | |
| 7. Hon. Esther Muthoni Passaris, M.P. | |
| 8. Hon. Paul Kahindi Katana, M.P | |
| 9. Hon. Betty Njeri Maina, M.P | |
| 10. Hon. Charo Kazungu Tungule, M.P | |
| 11. Hon. David Kiplagat M.P. | |
| 12. Hon. Duncan Mathenge Maina, M.P | |

ABSENT WITH APOLOGIES

1. Hon. Festus Mwangi Kiunjuri, EGH, M.P
2. Hon. Ronald Karauri, M.P
3. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

National Assembly Secretariat

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Isabella Mwembi | - | Clerk Assistant III |
| 4. Dr. Benjamin Ngimor | - | Principal Fiscal Analyst |
| 5. Ms. Angela Musau | - | Legal Counsel II |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Ms. Deborah Mupusi | - | Media Relations Officer |
| 8. Ms. Mercyln Kerubo | - | Audio Officer |
| 9. Ms. Juliet Minayo | - | Office Assistant |
| 10. Ms. Roselyne Ndegi | - | Serjeant At Arms |

Office of The Auditor General

Mr. Daniel Kuria - Officer

The National Treasury

Ms. Catherine Nzioki - Officer

MIN.NO.NA/PIC-CA&E/2025/161: ADJOURNMENT

The meeting was adjourned at 1:55 p.m. The next meeting will be held at 3.00 p.m. at the same venue.

Signed:



.....
HON. DAVID PKOSING, CBS, M.P.
Chairperson

Date: 18/9/2025

**MINUTES OF THE 6TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 8TH APRIL, 2025 AT
LIKONI AND ENTERPRISE ROAD, NAIROBI COUNTY AT 10:30 A.M.**

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. David Pkosing, CBS, M.P. | - | Chairperson |
| 2. Hon. (Dr.) Namoiit John Ariko, M.P. | - | Vice Chairperson |
| 3. Hon. Paul Kahindi Katana, M.P | | |
| 4. Hon. Charo Kazungu Tungule, M.P | | |
| 5. Hon. Kiplagat David. M.P. | | |
| 6. Hon. Mathenge Duncan Maina, M.P | | |
| 7. Hon. Yusuf Mohamed Farah, M.P | | |

ABSENT WITH APOLOGIES

1. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Esther Muthoni Passaris, M.P.
4. Hon. Sarah Paulata Korere, M.P
5. Hon. Dr. Babu Owino Paul Ongili, M.P
6. Hon. Dr. Beatrice Adagala, M.P
7. Hon. Maina Betty Njeri, M.P
8. Hon. Ronald Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 3. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 4. Ms. Angela Musau | - | Legal Counsel II |
| 5. Ms. Gladwel Amimo | - | Research Officer III |
| 6. Ms. Deborah Mupusi | - | Media Relations Officer |
| 7. Mr. Amos Tindi | - | Hansard Officer II |
| 8. Ms. Mercyln Kerubo | - | Audio Officer |
| 9. Mr. Nduaci Peter | - | Serjeant At Arms |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|------------------|---|---------|
| Mr. Felix Itonge | - | Officer |
|------------------|---|---------|

KENYA URBAN ROADS AUTHORITY

- | | | |
|----------------------------|---|------------------|
| 1. Eng. Silas Kinoti | - | Director General |
| 2. Eng. Lepartobiko Wilson | - | Officer |

- ii. **Enterprise road bridge** was incomplete. The contractor had not submitted design drawings for the proposed bridge structure.
- iii. A section of **Shreeji road** was incomplete. The contractor was doing earthworks as at the time of the audit.

Submission by KURA

Likoni Road

The works on the expansion of the bridge on Likoni road had not been done and a pending section for dualing was 0.18kms that is connected to dual carriageway on both sides of the bridge.

Enterprise Road Bridge

The construction of the new bridge over Ngong River was complete and a pending section for dualing totaling 0.26km was ongoing with a completion date of June 2025.

Shreeji Road

The pending section totaling 0.46km was not yet complete however earth works were done and the works were ongoing.

Submission by KRC

The management of KRC stated that they had plans to raise the bridge in Likoni Road intersection to above 7.0M in order to align with their strategic plan of electrifying the new proposed JKIA route and to accommodate double stacking of containers during transportation. However, they had not budgeted for the construction of a new bridge.

Committee Observations

The Committee made the following observations:

1. **Enterprise Road Bridge:** - the bridge over Ngong River was now complete and road works for dualing the pending section was ongoing.
2. **Shreeji Road:** - The road earth works were ongoing and the project was scheduled to be completed in June 2025, though Members raised concerns on the slow works of the project.
3. **Likoni Road Bridge:**
 - I. The Members noted that the bridge expansion had not commenced and given contestation between KURA and KRC on the height of the bridge, there was no likelihood of completion and this was inconveniencing the public.

**MINUTES OF THE 7TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON FRIDAY 11TH APRIL, 2025 AT
MAAI MAHIU AND SUSWA IN NAROK COUNTY AT 10:30 A.M.**

PRESENT

1. Hon. David Pkosing, CBS, M.P - Chairperson
2. Hon. (Dr.) Namoit John Ariko, M.P. - Vice Chairperson
3. Hon. Paul Kahindi Katana, M.P
4. Hon. Charo Kazungu Tungule, M.P
5. Hon. Kiplagat David. M.P.
6. Hon. Mathenge Duncan Maina, M.P

ABSENT WITH APOLOGIES

1. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Esther Muthoni Passaris, M.P.
4. Hon. Sarah Paulata Korere, M.P
5. Hon. Dr. Babu Owino Paul Ongili, M.P
6. Hon. Dr. Beatrice Adagala, M.P
7. Hon. Maina Betty Njeri, M.P
8. Hon. Ronald Karauri, M.P
9. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-------------------------|
| 1. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Angela Musau | - | Legal Counsel II |
| 4. Ms. Gladwel Amimo | - | Research Officer III |
| 5. Ms. Deborah Mupusi | - | Media Relations Officer |
| 6. Mr. Amos Tindi | - | Hansard Officer II |
| 7. Mr. Nduaci John | - | Serjeant At Arms |

OFFICE OF THE AUDITOR GENERAL

Mr. Felix Itonge - Officer

KENYA URBAN ROADS AUTHORITY

- | | | |
|----------------------------|---|------------------|
| 1. Eng. Silas Kinoti | - | Director General |
| 2. Eng. Lepartobiko Wilson | - | Officer |
| 3. Eng. Telieny Mike | - | Officer |
| 4. Eng. Maingi P.M | - | Officer |
| 5. Mr. John John Cheboi | - | Officer |

electric poles along the road reserve. Further, discussions were on-going between the Authority and Kenya Pipeline Company Ltd on removal of the Company's property from the road reserve.

Submission by KURA

The Contractor has been on site for approximately 34 months. The estimated physical progress of the works for the period ending 31st March 2025 was at 82%.

Committee Observations

Maai Mahiu

- I. The Committee observed that the works had progressed and the access road was 82% complete. Currently, the bitumen layer for the main road was nearly complete and awaiting the final layer, however, the walk pathways, the cycling track and drainage construction works were ongoing with an estimated completion date of 26/05/2025.
- II. The Committee noted the completion date of 26th May 2025, was not realistic given the amount of pending works. The Accounting Officer informed the Committee on the need for an extension of the completion period for the desired results to be achieved.
- III. The Committee emphasized on the need of construction of proper gabions to protect the road, given the nature of the loose volcanic soils and flash floods in the area.
- IV. The Committee noted that at current 82% completion, the contractor had been paid approximately Kes.800 million and the works on the access roads were progressing well. This marked a significance improvement given that at the time of the audit by the OAG the progress was at 10% and currently at 82%.
- V. The Committee observed that the adjoining residents was cut off from accessing the railway by a river. The Committee underscored the importance of constructing a bridge to facilitate accessibility of the railway by the neighbouring residents.

Suswa

The Committee noted the construction of access road to Suswa SGR was complete and open to the public for use, however on the main road the final layer of bitumen had not been applied.

**MINUTES OF THE 8TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON SATURDAY 12TH APRIL, 2025
AT KISII BYPASS, KISII COUNTY AT 10:00 A.M.**

PRESENT

1. Hon. David Pkosing, CBS, M.P - Chairperson
2. Hon. (Dr.) Namoit John Ariko, M.P. - Vice Chairperson
3. Hon. Paul Kahindi Katana, M.P
4. Hon. Charo Kazungu Tungule, M.P
5. Hon. Kiplagat David. M.P.
6. Hon. Mathenge Duncan Maina, M.P

ABSENT WITH APOLOGIES

1. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Esther Muthoni Passaris, M.P.
4. Hon. Sarah Paulata Korere, M.P
5. Hon. Dr. Babu Owino Paul Ongili, M.P
6. Hon. Dr. Beatrice Adagala, M.P
7. Hon. Maina Betty Njeri, M.P
8. Hon. Ronald Karauri, M.P
9. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant I
2. Mr. Andrew Kipchumba - Clerk Assistant III
3. Ms. Angela Musau - Legal Counsel II
4. Ms. Gladwel Amimo - Research Officer III
5. Ms. Deborah Mupusi - Media Relations Officer
6. Mr. Amos Tindi - Hansard Officer II
7. Mr. Nduaci Peter - Serjeant At Arms

OFFICE OF THE AUDITOR GENERAL

Mr. Felix Itonge - Officer

KENYA URBAN ROADS AUTHORITY

1. Eng. Silas Kinoti - Director General
2. Eng. Lepartobiko Wilson - Officer
3. Eng. Telienny Mike - Officer
4. Eng. Maingi P.M - Officer

Construction Company Limited) to continue executing the works. The assignee has implemented 19% of the works. The total progress of works to date is 28%.

The amount of money paid to the main contractor to date is kshs. 81, 095,008.95 while the assignee has been paid kshs. 58,464,995.19.

The assignee has presented a certificate amounting kshs.44,000,000 which is awaiting payment. The assignee has been unable to resume works due to financial challenges.

The Advance payment guarantee amounting kshs.84,692,110.00 is still valid. The Contract period has been extended to 30th Dec, 2025.

As at 31/03/2025, the Contractor had mobilized works and was currently at 28% progress.

Committee Observations

Section 1

The Committee observed that there was a construction site in place with recently re-assembled machines and no road works had been undertaken recently.

The Committee noted, the preparation of the sub base and clearing of the road had been done, however obstacles i.e. electric poles and tree stumps were visible.

The Committee was also informed that the last works on the roads by the contractor were on 28th July, 2023. Additionally, the contractor informed the Committee that the remaining subway will be done by July 2025.

Section 2

The Committee noted the Contractor had done the sublayer and cleared the road for half the road, the other half no works had been done, raising concerns on the capacity of the contractor to carry out the road works.

The Committee was informed that the delays were occasioned by change of contractor who had not attempted to carry out any works on the road.

MINUTES OF THE 9TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 15TH APRIL, 2025 ON
4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, M.P - Chairperson
2. Hon. (Dr.) Namoit John Ariko, M.P. - Vice Chairperson
3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
4. Hon. Festus Mwangi Kiunjuri, EGH, M.P
5. Hon. Dr. Beatrice Adagala, M.P
6. Hon. Esther Muthoni Passaris, M.P.
7. Hon. Paul Kahindi Katana, M.P
8. Hon. Charo Kazungu Tungule, M.P
9. Hon. Kiplagat David. M.P.
10. Hon. Mathenge Duncan Maina, M.P
11. Hon. Yusuf Mohamed Farah, M.P

ABSENT WITH APOLOGIES

1. Hon. Sarah Paulata Korere, M.P
2. Hon. Dr. Babu Owino Paul Ongili, M.P
3. Hon. Maina Betty Njeri, M.P
4. Hon. Ronald Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant I
2. Mr. Andrew Kipchumba - Clerk Assistant III
3. Ms. Angela Musau - Legal Counsel II
4. Ms. Gladwel Amimo - Research Officer III
5. Ms. Deborah Mupusi - Media Relations Officer
6. Ms. Roslyne Ndegi - Serjeant At Arms
7. Mr. Amos Tindi - Hansard Officer II
8. Ms. Mercyline Kerubo - Audio Officer

OFFICE OF THE AUDITOR GENERAL

1. Mr. James Njeru - Director Audit
2. Mr. Felix Itonge - Officer

KENYA URBAN ROADS AUTHORITY (KURA)

1. Eng. Silas Kinoti - Director General
2. Mr. Reuben Mayienda - Officer

- V. The minutes of the 4th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. David Kiplagat, MP and Hon. Esther Passaris, MP respectively.
- VI. The minutes of the 5th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Charo Kazungu, MP and Hon. David Kiplagat, MP respectively.
- VII. The minutes of the 6th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Duncan Mathenge, MP and Hon. Paul Katana, MP respectively.
- VIII. The minutes of the 7th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Paul Katana, MP and Hon. Charo Tungule, MP respectively.
- IX. The minutes of the 8th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Duncan Mathenge, MP and Hon. Charo Tungule, MP respectively.

**MIN.NO.NA/PIC-CA&E/2025/038 : MEETING WITH THE DIRECTOR
GENERAL KENYA URBAN ROADS
AUTHORITY TO EXAMINE THE AUDITED
ACCOUNTS FOR THE FY 2021/2022.**

FY 2021/2022 (Continuation)

1. Improvement of Nairobi Lot 2 - Upgrading of Shreeji Rd and Parts of Likoni and Enterprise Roads

The scope of the contract included rehabilitation and upgrading of single carriageway of Shreeji road (1.1K.m) to two lanes two-way 7m, construction of walkways and drains, expansion of existing bridge over rail on Likoni road and river bridge on Enterprise road, concrete drains on both sides, pipe culverts and other drainage works and road furniture. Audit inspection carried out in February, 2023 revealed the following anomaly;

- i. Likoni road bridge was incomplete despite time lapse.

In the circumstances, it is unlikely that the project will be completed by the revised completion date of 8 April, 2023, thus impacting adversely on realization of value for money.

Management Response (KURA)

Likoni road bridge section is pending. Kenya Railways Corporation (KRC) insisted on a minimum clearance of 7.01m instead of the initially designed 5.6m (Same clearance as the existing Bridge).

Committee Recommendations

- I. The Committee directed the Management of KRC to source for funds and in liaison with the KURA construct a bridge for the Community that had been cut off from accessing the main road at the Maai Mahiu SGR station.
- II. The Committee directed the OAG to keep the query in view.

3. Road Annuity Programme Lot 18; Kakamega, Vihiga, Bungoma & Busia

The Government represented by the Kenya Urban Roads Authority (KURA), identified the need to construct roads under the Road Annuity Programme Lot 18 and upgrade to bitumen standard under the Roads 10,000 programme. The project is being implemented under Finance, Design, Build, Maintain and Transfer (FDBMT) arrangement.

In Western Kenya the project covered roads with a total length of 35.3 km. Audit inspection carried out in February, 2023 revealed that;

- (i). Kakamega-Ilesi road was about 70% done.
- (ii). Vihiga- Chavakali- Munoywa- Kiritu was almost complete with 80% works done.
- (iii). Works in the other two counties of Busia and Bungoma were still at initial/mobilization stage.

Management Response

The Project had faced challenges of encroachments on the Project Roads and KURA had worked efficiently in conjunction with other stakeholders to overcome the challenges. The works were completed and are currently under operations and maintenance.

Committee Observation

The Committee noted the roads works had been completed and handover certificates availed.

Committee Recommendation

The Matter stands resolved.

4. Dualling of the Nairobi Eastern Bypass Road (From Baraka Roundabout to Ruiru Kiambu Junction (63)

Review of records and audit inspection carried out in February, 2023, revealed the following;

- i. Overall Project Progress

or 81% of the contract period had elapsed, with work progress reported at 30.44% and financial progress made was at 12.37%. Further, certified works amounted to Kshs.975,945,069 out of which Kshs. 678,651,770 had not been paid. In addition, the contractor was not on site having suspended work due to non-payment of certified work. In the circumstances, the continued delay in payment is likely to attract interest and penalties thus escalating the project cost. Further, delay in completion of the project is an indication that the citizens may not obtain value for money on the project.

Management Response

The current physical progress is at 40%. The contractor is on site and the project completion time has been extended upto 31st December, 2025.

The contractor had reduced his rate of works significantly due to lack of payments and is mobilizing to resume works after payment of pending bill. Efforts are being made through the Ministry to secure funds to clear the pending bills for the contractor.

Committee Observation

The Committee noted the project was at 40% and the current status was that the road works had stalled due to non-payment of the contractor, however the management informed the Committee that they had signed a return-to-work formula with the contractor.

Committee Recommendation

The Committee directed the OAG to keep the query in view in subsequent audit cycles.

6. Stalled Jomvu Kuu-Jitoni-Rabai Road Project

The contract was awarded to a construction company at a contract sum of Kshs.1,023,765,470 on 10 July, 2017 and a revised completion date of 21 March, 2022. The main project works comprised of construction to bitumen standards of Jomvu-Kuu Jitoni Rabai road with 7.0m wide carriageway, lined drains on both sides and 2.0m wide walkways on both sides. The total length of the project is approximately 11.7km. The works are situated in Mombasa and Kilifi Counties. The project was conceived under the Low Volume Sealed Urban Roads (LVSUR).

Audit inspection exercise carried out in February, 2023 revealed that the project implementation was behind schedule going by the project extended completion date of 21 March, 2022. It was noted that seven (7) milestones had been completed out of the nine (9) programmed milestones. The works had stalled and the contractor was not on site. Further, some completed sections of the road had been worn out and required to be redone.

Further, the contractor had withdrawn from site due to non - payment of the certified amount of Kshs.964,667,729. In the circumstances, the Authority has breached contractual obligation due to nonpayment of certified works.

Management Response

The current physical progress is at 65%. The contractor is on site and the project completion time has been extended upto 31st December, 2025.

The contractor had suspended works due to lack of payments and resumed works after payment of pending bill. Currently the outstanding pending bill is Kshs 817,506,948.05.

Committee Observation

- I. The Committee noted the road works were ongoing, and a completion date set for 31st December 2025, however given the huge amount of pending bill it was unlikely that the road would be complete with the set completion date.
- II. The Committee noted that in regards to the additional works at Uhuru Gardens, Nairobi, the works had been completed and the road open to the public.

Committee Recommendation

The Committee directed the OAG to keep the query in view.

8. Upgrading to Bitumen Standards of Mombasa Road (Devki)-Kinanie Park/Kinanie Leather, Machakos County

The contract was awarded to a consortium at a contract sum of Kshs.1,785,779,142 on 15 July, 2021 with a contract period of 36 months and expected completion date of 14 July, 2024. The project is situated in Machakos County. As at the time of audit in February, 2023, progress was 41% while time elapsed was 18 months (50% of contract period). The amount paid on the contract was Kshs.238,434,076 out of total works certified of Kshs.476,005,001 resulting to unpaid certified amount of Kshs.237,570,925.

Management Response

The current physical progress is at 60%. The contractor is on site and the project completion time had been extended upto 14th January, 2026. The contractor had suspended works due to lack of payments and resumed works after payment of pending bill.

Committee Observation

The Committee was informed the project had slowed down due to financial challenges, however the works were ongoing with a project completion date of 14th January, 2026.

the aforementioned road. The contractor fast tracked and completed all the works and it is under defects liability.

Committee Observation

The Committee noted the project had been completed and a handover certificate issued, and this was confirmed by the OAG.

Committee Recommendation

The Committee recommends the matter stands resolved.

11. Interest on Late Payments

Review of records revealed that there were claims of interest on late payment to contractors in respect of seven (7) projects undertaken by the Authority totaling to Kshs.110,438,332 which had accrued as at 30 June, 2022. Interest on delayed payments represents unnecessary additional charge to public funds beyond the projects' cost.

Management Response

Interest on delayed payments accrues as a result of late payments to the contractor and is governed by the contract provisions. This is necessitated by late disbursement of funds by the National Treasury.

Committee Observation

The Committee noted the Agency had challenge in settling their bills due to late disbursement of funds by The National Treasury, thus resulting in interest due to late payments.

Committee Recommendation

- I. The Committee directed the OAG to keep the matter in view in subsequent audit cycle
- II. The query remains unresolved, until the pending bills are settled.

12. Non-Preparation of Separate Financial Statements for Staff Mortgage Scheme

The Management did not prepare separate financial statements for the Staff Mortgage Scheme. However, the Funds operations were reported together with the Authority's financial statements. This contravened Regulation 221(1) of the Public Finance Management (National Government) Regulations, 2015.

Management Response

There have been various circulars freezing recruitment which has impacted on the employment of new staff and this has been compounded by budgetary constraints and the Government Austerity measures. However, we have continued seeking approval for recruitment from the National Treasury and carried out recruitment where approval is granted. Further requests to recruit are subject to approval of and availability of adequate resources.

Committee Observation

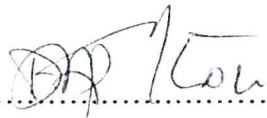
The Committee noted the management had made steps to fill crucial staff at the project implementation level and recently they managed to employ nineteen engineers.

Committee Recommendation

The Committee directed the OAG to keep the query in view in future audit cycles and focus on the staffing at the project implementation level, which comprise of Engineers, Senior Engineers and Directors and further, highlight the succession steps at the managerial level.

MIN.NO.NA/PIC-CA&E/2025/039: ADJOURNMENT

The meeting was adjourned at 1.39 p.m. The next meeting will be held on notice.

Signature 

**HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)**

Date..... 18/06/2025

**MINUTES OF THE 13TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY 4TH JUNE, 2025
IN 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.**

PRESENT

1. Hon. David Pkosing, CBS, M.P. - Chairperson
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Dr. Beatrice Adagala, M.P
4. Hon. Charo Kazungu Tungule, M.P
5. Hon. Mathenge Duncan Maina, M.P
6. Hon. Ronald Karauri, M.P

ABSENT WITH APOLOGIES

1. Hon. (Dr.) Namoit John Ariko, M.P. - Vice Chairperson
2. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
3. Hon. Sarah Paulata Korere, M.P
4. Hon. Dr. Babu Owino Paul Ongili, M.P
5. Hon. Esther Muthoni Passaris, M.P.
6. Hon. Paul Kahindi Katana, M.P
7. Hon. Maina Betty Njeri, M.P
8. Hon. Kiplagat David. M.P.
9. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Wanjiru Mwaura - Principal Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant I
3. Mr. Benjamin Ngimor - Senior Fiscal Analyst
4. Ms. Angela Musau - Legal Counsel II
5. Ms. Gladwel Amimo - Research Officer III
6. Ms. Deborah Mupusi - Media Relations Officer
7. Ms. Mercyline Kerubo - Audio Officer

OFFICE OF THE AUDITOR GENERAL

1. Mr. Wilson Kamula - Deputy Director Audit
2. Ms. Jackline Omune - Principal Auditor
3. Mr. Daniel Kuria - Liaison Officer

KENYA CIVIL AVIATION AUTHORITY (KCAA)

1. Mr. Emile Arao - Director General
2. Mr. George Mogaka - Corporate Secretary

Committee Observation

- I. The Committee was concerned of lack of concrete action, such as the registration of cautions, a moratorium, or court injunctions. It was especially concerned with the possibility of title holders using land as collateral, while KCAA merely occupies.
- II. The Committee recommended the need for mapping actual acreage lost through illegal subdivision.
- III. The Committee requested specific names of title holders and their transaction timelines. It was observed that while the response was detailed, several matters remained pending, and responses lacked follow-through.

Committee Recommendations

- I. The Committee recommended that KCAA urgently pursue the registration of undisputed parcels.
- II. KCAA to place court injunctions, moratoriums or legal caveats to prevent transactions on disputed land.
- III. KCAA to submit to the OAG and the Committee titles/allotment letters and conditions thereof.
- IV. KCAA to submit a full list of individuals/entities with titles to public land and CR12s of the registered companies.
- V. The Committee to consider the possibility of a physical verification or tour to the affected sites.

1.2 Properties Allocated to Third Parties

Records made available for audit indicated that the parcels of land belonging to the Authority have been allocated and registered in the name of third parties as indicated below;

No.	Location and Description	Acreage	Registered owner
1	Mtito-Andei-Ngai Ndeithya Settlement Scheme/161	13 acres	Individual
2	Bamburi Staff Housing	Not Known	Individual
3	Central Stores in Nairobi	0.7733 Hectares	Individual
4	East African School of Aviation	37 acres	Various

Committee Observations

- I. The Committee noted that this item was referenced in the Auditor General's report but not responded to by KCAA management.
- II. The chair directed that any pending issues related to revenue, including under-collection or unremitted funds, must be clarified in the written submissions from KCAA.

Committee Recommendations

- I. KCAA to submit a detailed breakdown of revenue streams for FY 2018/2019, including:
 - (a) Revenue targets vs. actuals.
 - (b) Any variances and reasons.
 - (c) Actions taken to improve collection and compliance.
- II. Auditor General to flag and follow up on any inconsistencies or systemic issues in future reports.

Other Matter

Prior Year Audit Issues

The audit report for the previous financial year had highlighted several unsatisfactory issues which included irregular procurement and spending on consultancy services for construction of hostels and a modern conference center, construction of a perimeter wall at East African School of Aviation and provision for liability on a pending legal suit arising from cancellation of an aviation license in 2003. Others were on unconfirmed ownership of properties and irregular payment of subsistence allowances.

Report of Lawfulness and Effectiveness in Use of Public Resources

1. Failure to Utilise Some Modules of the Human Resource Management System

The contract for the supply, installation and commissioning of Human Resource Management (HRM) System was awarded at a contract sum of Kshs.8,415,200 and was due for implementation in 34 weeks commencing June, 2014. Although, the whole contract price was paid to the contractor, modules for attendance, staff discipline and exit and pensions management were not utilized. In the circumstance, value for money may not have been realized on the expenditure totaling Kshs.8,415,200 incurred on the system.

Observations:

- I. The Committee raised concerns over wasteful expenditure on systems not fully implemented or used.
- II. Committee noted this as a common issue across many agencies, where expensive ICT systems are procured but not optimally utilized.

As reported previously, ownership documents for land and buildings were not provided. These are: - thirty-one (31) housing units at Nyali, Mombasa, thirteen (13) housing units at Bamburi, Mombasa, eighty-seven (87) acres of land at East African School of Aviation, Nairobi, one hundred and thirty-two (132) acres at Central Transmitting station along Mombasa Road, and staffing houses at Miritini, Mombasa. Further, ownership documents for: - a property at Wajir, a plot at Bwagamoyo Kilifi, a plot at Lokichogio, Generator Room at Lodwar in Turkana and plots at Embakasi village were not provided. The preparation of the ownership documents was reported to be underway at the Ministry of Lands and Physical Planning with no indication as to when the process is likely to be completed.

Committee Observations and Recommendations

The Committee observed that these issues were "As reported previously", indicating that the observations and recommendations for FY 2018/2019 on "Lack of Ownership Documents for Land and Buildings" and "Properties Allocated to Third Parties" are largely applicable here.

1.2 Properties Allocated to Third Parties

Review of records indicated parcels of land belonging to the Authority that have been allocated and registered in the name of third parties. The Public Investment Committee in its 19th report recommended that the National Land Commission revoke the titles and revert them to the Authority and register all owned parcels of land in its name. In addition, the Committee had previously recommended that the National Land Commission investigate circumstances under which a plot in Nairobi County was transferred from public to private ownership. However, there was no evidence of any action taken on the matters by the Management as at 30 June, 2020. In the circumstances, the accuracy, completeness, ownership and validity of the property, plant and equipment balance totaling to Ksh18,076,601,574 reflected in the statement of financial position as at 30 June, 2020 could not be confirmed.

Committee Observation

The Committee noted the above queries were recurring and had been addressed in the FY 2018/19.

Unsupported Revenue

Committee Observation

- I. The Committee observed that the issue is repetitive across financial years. Therefore, the observations and recommendations regarding revenue issues from FY 2018/2019 apply to this financial year as well.
- II. The Committee noted the above query was recurring and had been addressed in the FY 2018/19

In the 2018/19 financial year's statement of financial performance reflected revenue from non-exchange transactions, air passenger service charge fee of Ksh2,510,200,209 and as disclosed under Note 7 to the financial statements. This amount relates to revenue collectable by the Kenya Revenue Authority (KRA) and shareable between the Kenya Civil Aviation Authority, Kenya Airways and Tourism Promotion Fund. However, data on the sum collected during the year under review was not provided for audit review and as a result, it was not possible to confirm the accuracy and completeness of the balance.

Management Response

KCAA in liaison with Kenya Airports Authority (KAA) and Kenya Revenue Authority (KRA) undertakes monthly reconciliation on APSC revenue to determine amount receivable from the paying passengers (Annex 2.0PYa,b&c). However, the funds are collected by KRA and remitted to a fund managed by KAA. KCAA does not have visibility of the funds to determine actual sum collected. Therefore, the APSC Act should be amended to allow remittance of the KCAA portion of sum collected directly to the Authority.

Committee Observation

- I. The Committee noted that this item was referenced in the Auditor General's report, but a response was not provided by KCCA.
- II. The Committee directed that any pending issues related to revenue, including under-collection or unremitted funds, must be clarified in the written submissions from KCAA.

Committee Recommendation

KCAA to submit a detailed breakdown of revenue streams for FY 2018/2019. Auditor General to flag and follow up on any inconsistencies or systemic issues in future reports.

MIN.NO.NA/PIC-CA&E/2025/056: ANY OTHER BUSINESS (AOB)

- I. The Committee directed the Inspectorate of State Corporations and the National Treasury to submit an updated report on the status of state corporations proposed for dissolution or merger within two weeks. This report is intended to help the Committee decide on scheduling of the affected entities for examination of their audited accounts.
- II. The Committee will convene a separate session with the State Corporations Advisory Committee (SCAC) and Treasury to review the broader impact of the mergers on aviation safety, regulation, and performance.

**MINUTES OF THE 14TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON FRIDAY, 13TH JUNE 2025 IN
JOHARI 2 CONFERENCE ROOM, SAROVA WHITESANDS, MOMBASA AT 09:30 A.M.**

PRESENT

- | | | |
|---|---|-------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. Dr. Adan Keynan Wehliye, CBS, M.P | | |
| 3. Hon. Dr. Babu Owino Paul Ongili, M.P | | |
| 4. Hon. Esther Muthoni Passaris, M.P. | | |
| 5. Hon. Paul Kahindi Katana, M.P | | |
| 6. Hon. Charo Kazungu Tungule, M.P | | |
| 7. Hon. Duncan Mathenge Maina, M.P | | |

APOLOGIES

- | | | |
|--|---|------------------|
| 1. Hon. Dr. John Ariko Namoit, M.P. | - | Vice Chairperson |
| 2. Hon. Festus Mwangi Kiunjuri, EGH, M.P | | |
| 3. Hon. Sarah Paulata Korere, M.P | | |
| 4. Hon. Dr. Beatrice Adagala, M.P | | |
| 5. Hon. Betty Njeri Maina, M.P | | |
| 6. Hon. David Kiplagat M.P. | | |
| 7. Hon. Ronald Kamwiko Karauri, M.P | | |
| 8. Hon. Yusuf Mohamed Farah, M.P | | |

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|----------------------|
| 1. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Angela Musau | - | Legal Counsel II |
| 4. Ms. Gladwel Amimo | - | Research officer III |
| 5. Mr. Brian Njeru | - | Fiscal Analyst III |
| 6. Mr. Amos Tindi | - | Hansard Officer |
| 7. Ms. Roslyn Ndegi | - | Serjeant at Arms |

OFFICE OF THE AUDITOR-GENERAL

- | | | |
|------------------------|---|-------------------------------|
| 1. Mr. Thomas M. Kilei | - | Auditor |
| 2. Mr. Fredrick Kimani | - | Auditor |
| 3. Mr. Felix Itonge | - | Parliamentary Liaison Officer |

THE NATIONAL TREASURY

- | | | |
|--------------------|---|---------|
| 1. Ms. Mary Mbeke | - | Officer |
| 2. Mr. Obote Evans | - | Officer |

The management of Kenya Ports Authority, led by the Managing Director Captain William K. Ruto appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2019/20 and FY 2020/21.

FY 2020/21

1. Operating Revenue

1.1. Loss of Revenue on Waivers

The balance includes an amount of Kshs.4,519,604,000 in respect of revenue from storage of containers. The amount is net off waiver of Kshs.1,914,950 granted by management after approval by the corporate waiver committee and inland container depots (ICD/s) waiver committee on storage revenue chargeable on dangerous cargo. However, this is contrary to Paragraph 5.0 (d) of the waiver policy, which states that, waiver shall not be granted on dangerous cargo rent.

Further information provided indicated that the Authority has not set aside and designated with the necessary infrastructure to respond to any peril and suitable place for storage of dangerous cargo to ensure that employees and authority assets are not exposed to risks posed by dangerous cargo.

Management Response

i) Waiver granted on dangerous cargo

Waiver of storage charges for dangerous cargo is disallowed in the waiver policy to deter cargo owners from using the port as a storage facility. While it is imperative to discourage the storage of dangerous cargo in the port due to the inherent safety and environmental risks involved, there are instances where waivers of storage charges have been granted under exceptional circumstances.

Despite the significance of Clause 5 (d) in the Waiver Policy 2018, which aims to prevent the misuse of the port as a storage facility, waivers are granted after considering a combination of factors aimed at addressing the objectives outlined in both the original 2018 policy and its revised 2021 version.

ii. Designated area for safe keeping Dangerous Cargo

the Authority has designated the following segregation sites for dangerous cargo stacking at Container Terminal 1: Block K Bay 15-27 and Container Terminal 2: Block SL Bay 0-31.

Committee Observations

- I. The Committee observed the management of KPA in their submission had not provided the reasons why the waivers were granted to the specific customers.
- II. The Committee noted the management had provided designated areas for handling dangerous cargo.

Committee Observations

- I. The Committee noted the management had challenges in collecting the jetty fees due to small boat operators nomadic movements, dispute about the new tariffs and the Covid pandemic.
- II. The Committee was informed that currently the management was collaborating with other government agencies e.g. KFS, Kenya Coast Guards, among others to ensure enforcement in collection of the fees.

Committee Recommendation

The Committee recommends the matter is resolved and directed the OAG to keep it in view in subsequent audit cycles.

1.3. Unconfirmed Credit Revenue

Review of the re-marshalling charges ledger revealed cumulative credit memos totaling to kshs. 147,711,088 given to cargo customers. The credit memos were supported by disputes electronic mails from the customers. However, details of original bills and evidence to support each of the disputes / claims by the customers for the alleged wrong billings prior to approval of credit memos were not provided for audit review. Wrong data capture in the system for billing purposes which is latter reversed using the credit memos is an indication of weaknesses in the revenue capturing and billing system.

Management Response

The Authority, to fast-track dispute resolutions with customers and thereby enhance prompt collection of receivables, incorporated a Dispute Management module/portal in the SAP Financial system.

During the audit, management explained to the auditors that there exists a Dispute Management Module/portal in SAP system where the clients register their disputes online via a portal. The Dispute Management Module/portal operates in a workflow format, where the disputes registered by clients flow online to the Authority's financial system for evaluation of merit. The Auditors are also provided with access to SAP modules and training to facilitate the audit.

All credit notes are automatically linked to the underlying original bill/invoice. The Dispute module/portal internal controls cannot allow processing of the credit memo without linking it to the original invoice.

The Authority has a continuous training program for billers and operations staff to equip them with Knowledge of the tariff, tariff application and operational procedures.

Committee Observation

The Committee was informed that the management had an automated system and during the time of audit, the credit notes entries were referenced to the original memo. Further, the management had trained the officers on billing and operation procedures.

However, management had not revised the rent upwards as of December 2021. In addition, the Authority was not paying fringe benefits to KRA for provision of houses to employees at discounted rates as require by Section 21B of the income Tax Act Cap 470.

Management Response.

We clarify the following:

- i. Following the rent assessment that was carried on all the Authority's housing estates in 2019, rent for the housing units was reviewed upwards by 7% w.e.f. September 2020, a partial implementation that was influenced by the inflation factor, the need to have the houses renovated and a new rent assessment carried out.
- ii. Management is looking forward to a periodic review of rent to ensure rent charged is within market rates.

Further, Section 12(B) of the Income Tax Act 2017 defines Fringe Benefit Tax as tax payable by every employer in respect of a loan provided at an interest rate lower than the market interest rate. The provision of houses by the Authority is for houses owned by the Authority and the charge is on monthly basis as rentals and not loans. It, therefore, does not qualify for Fringe Benefit Tax.

Committee Observation

The Committee were concerned that there was a likelihood that KPA was not collecting the right amount of rental fee from the houses.

Committee Recommendations

- I. The Committee directed the management of KPA to submit a schedule of; the 1200 staff occupying the houses plus the monthly house allowance each staff was paid, provide the market rate rent of the houses and the amount currently charged.
 - II. The documents be submitted to the Clerks Office and the OAG by 20th June 2025 for verification.
3. Irregular Overtime Allowances

Committee Observations

The was a recurring query and had been handled in the FY 2019/20.

4. Administrative Expenses

4.1. Unsupported Insurance Premiums

Committee Observation

The was a recurring query and had been handled in the FY 2019/20.

4.2. Unsupported Corporate Social Responsibility Expenses

Committee Recommendation

The Committee directed the OAG to visit the Jetty that was under repair to confirm its state.

5. Unsupported Expenses on Operating Expenses

5.1. Unsupported Retention Monies

The balance includes expenditure on repairs of port infrastructure balance of Kshs. 1,414,815,000 disclosed in Note 10 to the financial statements includes retention monies totaling to Kshs. 2,511,489. The latter relates to tender for demolition, installation and repairs of navigation masts and related civil works at Malindi, Kipini and Likoni which had been awarded at a contract sum of Kshs. 59,796,187. The works were procured using the biennial contract for repairs and maintenance works included demolition of old masts and installation of new ones.

During physical verification in the month of November, 2021, it was noted that the mast at Malindi was fiber reinforced in design. This was not part of bills of quantities provided for audit review. Further, Management showed the audit team three different masts in Likoni without specifying the ones relating to this contract. In addition, instructions to the contractor and measurements of actual works done in comparison to the previous existing installations for the items were not provided for audit review.

Management Response

(i) Malindi – We concur with the Auditor that the Malindi Front and Rear Masts are fibre reinforced. The executed works on these masts included sealing of cracks and painting using marine paint. Painting of all masts both steel and fibre was contained in item 2.07 of the Bills of Quantities.

(ii) Likoni – Rehabilitation and reconstruction of all the three masts in Likoni were covered under the contract. under item 2.03, 2.04 & 2.07 of the BOQ. A site visit to Likoni involving our technical staff and the Auditors was deemed fit and the same took place on Tuesday the 13th of February 2024 and clarification made on the nature of work done as per the BOQ.

Committee Observations

- I. The Committee observed that in regards to the masts at Likoni, the rehabilitation and reconstruction were complete and this was confirmed by the OAG.
- II. The Committee noted the masts at Malindi were complete, however the masts were reinforced using carbon fibre instead of steel as contained in the bill of quantities, and the management stated this was an error in the BQs and the change of material had no cost implication and was a modern material due to its resistance to rust.

Committee Recommendation

The query stands resolved.

5.2. Overhaul of Marine Engine

MINUTES OF THE 15TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON FRIDAY, 13TH JUNE 2025 IN
JOHARI 2 CONFERENCE ROOM, SAROVA WHITESANDS, MOMBASA AT 03:00 P.M.

PRESENT

- | | | |
|---|---|-------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. Dr. Adan Keynan Wehliye, CBS, M.P | | |
| 3. Hon. Dr. Babu Owino Paul Ongili, M.P | | |
| 4. Hon. Esther Muthoni Passaris, M.P. | | |
| 5. Hon. Paul Kahindi Katana, M.P | | |
| 6. Hon. Charo Kazungu Tungule, M.P | | |
| 7. Hon. Duncan Mathenge Maina, M.P | | |

APOLOGIES

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| 1. Hon. Dr. John Ariko Namoit, M.P. | - | Vice Chairperson |
| 2. Hon. Festus Mwangi Kiunjuri, EGH, M.P | | |
| 3. Hon. Sarah Paulata Korere, M.P | | |
| 4. Hon. Dr. Beatrice Adagala, M.P | | |
| 5. Hon. Betty Njeri Maina, M.P | | |
| 6. Hon. David Kiplagat M.P. | | |
| 7. Hon. Ronald Kamwiko Karauri, M.P | | |
| 8. Hon. Yusuf Mohamed Farah, M.P | | |

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|----------------------|
| 1. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Angela Musau | - | Legal Counsel II |
| 4. Ms. Gladwel Amimo | - | Research officer III |
| 5. Mr. Brian Njeru | - | Fiscal Analyst III |
| 6. Mr. Amos Tindi | - | Hansard officer II |
| 7. Ms. Roslyn Ndegi | - | Serjeant at Arms |

OFFICE OF THE AUDITOR-GENERAL

- | | | |
|------------------------|---|-------------------------------|
| 1. Mr. Thomas M. Kilei | - | Auditor |
| 2. Mr. Fredrick Kimani | - | Auditor |
| 3. Mr. Felix Itonge | - | Parliamentary Liaison Officer |

THE NATIONAL TREASURY

- | | | |
|--------------------|---|---------|
| 1. Ms. Mary Mbeke | - | Officer |
| 2. Mr. Obote Evans | - | Officer |

An amount of Kshs.12,420,000 relates to payments made to two caretaker service providers at dockyard and at terminal engineering sections. Records provided for audit indicated that the service providers through a letter to the head of administration requested for additional scope of work at the dockyard area. Further, the service providers issued the Authority with invoices totaling to Kshs.11,340,000 in the month of April, 2021 for services rendered for a period of twenty-one (21) months.

However, no documentary evidence was provided to confirm that the service was procured in line with Section 91(1) of the Public Procurement and Asset Disposal Act, 2015 which states that, "open tendering shall be the preferred procurement method for procurement of goods, works and services." Further, a signed contract or a local purchase order for the service was not produced for audit verification.

Management Response

We clarify the following:

- i. That the additional works were falling adjacent to the scope of the original contract area that was meant to be covered by the said firms.
- ii. These additional areas were not covered by the contract terms yet cleaning services were required.
- iii. It is noteworthy to mention that the need to make the work environment habitable for users, necessitated the action that was taken.

Committee Observations

The Committee was informed this was occasioned by a court case regarding a tender for cleaning services, therefore as new operating areas were opened up, it needed to be cleaned thus additional works were added to the cleaning companies that were in place.

Committee Recommendations

- I. The Committee directed the management of KPA to submit the court order that allowed the cleaning firms to continue and documentation on the additional scope of the other cleaning spaces that were not in the original scope of work.
- II. The documents to be submitted to the Clerks Office and the OAG for verification.

5.4. Unsupported Expenditure on Provision of Services by National Youth Services in Kisumu

An amount of Kshs.71,767,166 relates to payments made to National Youth Service for rehabilitation of Kisumu Port. The following observations were made:

- i. The amount of Kshs.71,767,166 includes advance payments of Kshs.47,663,594 for works and services to be provided by NYS while Kshs.24,102,57 was reimbursement of expenditure incurred by the Service. However, no reports of work done were produced to support utilization of the advance payments.
- ii. Further, included in the amount of Kshs.71,767,166 is Kshs.1,000,000 which was released without evidence of budgetary provision detailing how the funds were to be utilized.

- ii. The authority vide letter reference MCS/4/7/2009 dated 5 January 2020 requested the CS – National Treasury for Authority to transfer funds for the estimated project cost of Kshs. 260,000,000 to the National Treasury for reallocation to Ministry of Defence for implementation. The same was approved and was followed by transfer of funds on 13 January 2021.
- iii. However, the MOD had not provided details of the extent of completion and utilization of the amount of Kshs.260,000,000 as at the time of this audit.

Management Response

We concur that the Authority transferred Kshs 260 million for dredging to the National Treasury for reallocation to the Ministry of Defence (MOD) following a cabinet directive. The attached correspondence is relevant. Information regarding the completion and utilization of the amount of Kshs 260 million can only be obtained from MOD who were the implementing agency for the works.

Committee Observation

The money was transferred to the National Treasury and at the time of reporting, it was no longer recorded in the financial statement of KPA.

Committee Recommendation

The matter stands resolved and the OAG to confirm if the amount is no longer captured in the financial statement of KPA.

7. Trade and Other Payables

An amount of Kshs.563,538,760 and Kshs.587,876,217 related to accrued bonuses for the financial years 2018/2019 and 2019/2020, respectively. However, the Board's approval of the provision for payments was not provided for audit verification.

Management Response

We clarify that accrued bonuses for the financial years 2018/2019 and 2019/2020 of Kshs 563,538,760 and Kshs 587,876,217 respectively have not been paid. For purposes of complying with the matching principle of accounting the Authority accrued bonus based on performance. The bonuses were adjusted to the General Reserves in FY 2021/2022 awaiting the approval. Bonus payments are provided for under paragraph C.8 of the Kenya Ports Authority Human Resources Manual.

Committee Observation

The Committee was informed that the current status was that the bonuses had been paid.

Committee Recommendation

The matter stands resolved.

Committee Recommendation

The matter stands resolved.

8.3. Concrete Works at Makongeni

An amount of Kshs.313,098,245 related to concrete works at Makongeni Inland Container Depot. Information and records provided for audit indicated that the Authority was not in possession of the land, did not have ownership documents for the same or was it utilizing the asset.

Management Response.

Administrative action was taken against the culpable staff. The works were investigated by DCI and the matter is before the court.

Committee Observation

The matter was before the court against two employees.

Committee Recommendation

The matter was before court hence sub-judice.

8.4. Supply and Commissioning of Forklifts.

Included in the balance is an amount of Kshs.58,612,668 in respect of three (3) sixteen-ton and two (2) five-ton forklifts. Records provided for audit indicated that the Management advertised for supply and commissioning of forklifts vide a tender on 9 July, 2019. The tender was processed and awarded to one local supplier at a total bid price of Kshs.67,680,000. However, the following anomalies were noted:

- i. The delivery period was six (6) months from the date of award and the winning bidder issued a performance bond of Kshs.6,768,000, being 10% of the amount of the contract from a local bank dated 11 December, 2019 which was valid until 11 March, 2020. However, the forklifts were supplied in November, 2020 after expiry of the bond and no evidence of renewal of the same was provided for audit review.
- ii. Further, the contract provided for liquidated damages at a rate of 2.5% per week of 1/3 of the contract price for delayed delivery. The forklifts were delivered 10 weeks later on 28 October, 2020 from the expected date of 15 August, 2020. However, Management did not charge the liquidated damages amounting to Kshs.5,640,000.
- iii. Through a Memo from the Senior Mechanical Engineer indicated that the forklifts were jointly inspected against itemized technical parameters and found to lack the requirement for truck control and monitoring but noted that the equipment was to be delivered and installed by an engineer from the Company. The Management did not provide evidence that this was done.
- iv. One of the mandatory requirements in the tender document was 'a Duly Completed Original Manufacturer's Authorization Form' by the manufacturer where the bidder is not the

restrictions vide presidential directive issued on 20th October 2020. Therefore, there was no loss of funds as result of expiry of the performance bond.

Management could not invoke liquidated damages because the delays were as result of unforeseen circumstances.

Further, the contract required that the supplier would deliver and install the control and monitoring system. The truck control and monitoring which provides the ability to troubleshoot using a diagnostic tool, is now available and working. Appendix 21

The tender was evaluated in accordance with criteria and requirements set out in the tender document. The Authority relied on documents submitted by the bidder. However, the physical verifications of information could not be undertaken due to onset of the COVID -19 pandemic and restriction of movement at that time. It is however noted that Mantrac Egypt whose documents were submitted by the bidder provided evidence of authorization as dealers of Caterpillar spares and equipment. From the documents submitted the equipment was to be manufactured by Mantrac of Smart Village, Cairo Egypt. The same authorized M/s Belyne Freight & Logistics Limited vide supplier authorization dated 19th August 2019 was attached to the bidding documents. Appendix 22

On the issue of training. The training was to be undertaken at the factory site. However, following the outbreak of Covid-19 and subsequent restrictions of movement, the Authority could not send officers. The equipment supplier has since refunded to the Authority KES 200,000 paid as factory site training cost. The local training was carried out on 16th November 2023 as per attached evidence, Appendix 22

We further clarify the following;

- i. On the CAT logo, this is normally verified during pre-shipment inspection which was not done due to Covid-19 outbreak. However, upon delivery the equipment conformed to the technical specifications as per the requirements in the tender document.
- ii. Clause 7.4.3 of the specifications outlined in the tender document required bidder to provide either of the following brands of the power unit; Cummins, Perkins, Volkswagen, Toyota, Kubota or Yanmar engines. The said bidder was in compliance with the said specifications as they delivered a Cummins engine.
- iii. The tender was evaluated based on the criteria set out in the tender document and specifications there in prepared in accordance with section 60 of the Public Procurement and Asset disposal Act 2015 which dis-allows use of Country of origin in writing specifications. The Country of origin was not a requirement by the authority. However, the equipment is still under warranty and vide correspondence 28th June 2022 the Authority requested the Contractor to provide an English translation. Further note, manufacturing companies often acquire some assembling parts from China or the parts producing companies outside Europe.

cost of kshs. 1,427,838 during the year under audit review. However, no evidence of a new contract or an extension of the existing contract was produced for audit verification.

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

Management Response

The Authority was undergoing rebranding and development of new uniforms and PPEs manual. Subsequently, Management extended the previous contracts until such a time as a new brand manual and uniforms and PPEs policy and manual were developed.

The contracts were extended as the Staff were entitled to these items as per the Occupational health and Safety requirements for the workplace.

The subject tenders were procured under the Public Procurement Act 2005. The Tender Committee at its meeting ref. 001/2016-17 held on 20th July 2016 approved extension of contract for supply of uniforms tender number KPA/137/2010-11/PSM for a period of 6 months or until another contract came into place. Consequently, the Authority advertised open tenders vide Tender no. KPA124/2019-2020/PSM and KPA125/2019-2020/PSM for supply of uniforms and new contracts were awarded.

Committee Observation

The Committee noted from the management's explanation they had not provided document to justify an extension of the existing contract.

Committee Recommendation

- I. The Committee directed the management to submit the documents justifying the extension of the contract to the Clerk's Office and the OAG for verification.
- II. The matter remains unresolved.

14. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

Records provided for audit indicated that the Authority awarded a contract for provision of housekeeping services (preference group) to various service providers in October, 2018 for a period of one year, non-renewable, starting 1 November, 2018 to 31 October, 2019. However, the Authority communicated extension of contracts for an additional period of two years, effective 1 November, 2019. This was done contrary to Section 139(2) of the Public Procurement and Asset Disposal Act, 2015 which states that, 'An accounting officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for the following, which request shall be accompanied by a certificate from the tenderer making a justification for such cost'. This is an indication that the service providers were engaged, operated and were paid for three months without valid contracts.

Further, the extension of the contract resulted to an overall incremental cost by Kshs.13,932,353.70 or 200% of the original contract sum, contrary to Section 139(4)(b) and (e) of

Chapter 1 of Mwongozo Code, clause 1.1 on Appointment, composition & size, point 9 states that *"the chairperson of all SCs shall be appointed by the president and shall at a minimum possess the qualifications, skills and experience..."*. In addition, point 10 states that, *"the Board members of SCs shall be appointed by the Cabinet secretary of the parent ministry and shall at a minimum possess the qualifications, skills and experience..."*.

Point 14 states that, *"the appointing authority shall ensure that any person appointed to the Board of a SC satisfies the fit and proper requirements"*.

Committee Observation

The Committee noted the management ought to have sought for advisory from the SCAC, and further, the composition of the board was beyond the control of management of KPA.

Committee Recommendations

The Committee to make recommendation to the Executive in regards to ensuring the boards are properly constituted.

16. Business Licensing at the Port

Audit review of the Authority's licenses processing revealed that the Authority uses manual processes for the application, review of approval and issuance of licenses. However, the manual license books which are accountable documents were not designated to a specific person for safe keeping. Further, Management provided an approved operational procedure for application, review/appraisal, approval and issuance of the licenses. However, the procedure did not include any requirement for the licensing committee to confirm that the applicant has a valid lease agreement for the space, area or building hosting the business within the Port precincts. In addition, the Authority did not produce valid tenancy agreements (businesses licensed to operate at the Port) or details of their locations while there was no policy on the identification of business and Port users' needs, process of identifying the licensees and means of controlling their businesses within the Port.

Management Response

We clarify the following.

Safekeeping of accountable documents

At the time of the audit, the licensing booklets were under the custody of the Commercial Officer (Tariffs, Refunds and Licensing). Because of space limitations, the officer shares the office with three other staff working under him. For continuity of service delivery, the booklets were placed in an internal store accessible to only two officers. It is confirmed that the booklets are kept securely, and no third party can access the store. The risk of any breach is therefore minimal because all the officers sitting in that office have a role to play in the licensing process at different stages.

Substitutions done after the date the employee started working was due to the controlled number of staff with substitution roles and the process of configuring new staff to attain the system roles in SAP.

However, as part of our continuous improvement process, Management has been monitoring shift substitutions to ensure there is no abuse and where it has taken place corrective action is taken as per the regulations in force. Details of the 51,914 substitutions and 35,800 substitutions are attached. Appendix 28

Committee Observation

The management stated there was continuous monitoring of shifts and there was a policy in place.

Committee Recommendation

The Committee directed the OAG to keep the query in view and check the efficiency of the policy in the next audit cycle.

18. Time Management Roles Assigned to Junior Employees

Records produced for audit review indicated that the Management had assigned time management rights to various employees. However, it was observed that nineteen (19) junior employees (clerks) had been assigned time management rights instead of supervisors in management positions. This resulted to junior employees performing various supervisory roles including initiation, execution and approval of overtime transactions which were then transferred to payroll for processing of payments.

In the circumstances, the effectiveness of the supervisory roles cannot be confirmed.

Management Response

The position regarding this matter is that staff involved are thirteen (13) and not as observed in the Audit report. These were employees who initially worked as time clerks prior to the introduction of the biometric clocking system. Upon the implementation of the Time & Attendance system they were retained as operators of the system and were eventually promoted to management level after the Time and Attendance structure was put in place thus correcting the anomaly pointed out in the Auditors report. Refer to Appendix 29 for a list of the employees and sample promotion letters.

Committee Observation

The Committee was informed the nineteen (19) junior officers had been promoted to management level.

Committee Recommendation

The matter stands resolved.

TNT/2216/01'TY'17 dated 11th May 2021. The Board at its 402nd Regular meeting held on 9th June 2022 approved implementation of SCAC approved HR instruments.

Committee Observation

The management noted that a new human resource policy was in place.

Committee Recommendation

The matter stands resolved.

21. Employees Appointed to Positions not in the Staff Establishment

A review of Human resource documents revealed that the Authority had 7,792 positions in its establishment with 6,655 positions already filled. However, among the 6,655 employees are two (2) General Managers (HE1), six (6) Heads of Departments (HE2), four (4) principals (HM1) and two hundred and fifty (250) Junior Managers (HM4), all totaling 262 employees who were appointed to positions not in the approved staff establishment. This resulted to payment of salaries and allowances of Kshs.629,067,719, contrary to Section 5(3) of the State Corporations Act, 2012 which states that, 'a state corporation may engage and employ such number of staff, including the Chief Executive, on such terms and conditions of service as the Minister may, in consultation with the Committee, approve.' Consequently, Management is in breach of the law.

Management Response

The appointment of staff to positions designated as supernumerary was on a necessity basis that was dictated by the circumstances of the business, notably the Port's expansion plan, growth in cargo through-put, SGR, Infrastructure development i.e., Lamu Port Flagship Project and Kisumu Port, as well as equipment acquisition which inordinately generated considerable HR capacity requirements.

Upon verification of the (262) employees designated as supernumerary; the employees were deployed in line with staff requirements occasioned by port expansion as explained below:

1. Nairobi ICD business expansion in infrastructure and operational equipment
2. Mombasa station introduction of the SGR operations & Container Terminal 2 operations which required additional human capital that is not in the current staff establishment.
3. Operationalization of Lamu & Kisumu Ports, Naivasha ICD which also required reassignment of staff to actualize the said operations.

Committee Observation

The committee was informed a new staff establishment was in place and no employees were in the supernumerary positions.

Committee Recommendations

Committee Observation

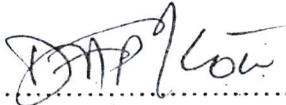
The Committee was informed the staff play a crucial role in guiding the ships to the dock, and their training take a long time, however, the management had developed sucession plan to bridge the gap.

Committee Recommendation

The Committee advised the management to come up with a paper in regards to handling of specialised personel who are contracted after the attainment of the retirement age, this paper is to guide the Committee in coming up with a recommendation in its report.

MIN.NO.NA/PIC-CA&E/2025/067: ADJOURNMENT

There being no other business, the meeting was adjourned at 07:32 pm. The next meeting will be held on notice.

Signature 

**HON. DAVID PROSING, CBS, M.P.
(CHAIRPERSON)**

Date..... 29/07/2025

**MINUTES OF THE 16TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY, 17TH JUNE 2025 IN
4TH FLOOR, CONTINENTAL HOUSE, MAIN PARLIAMENT BUILDINGS AT 10:00
A.M.**

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Dr. Babu Owino Paul Ongili, M.P
4. Hon. Esther Muthoni Passaris, M.P.
5. Hon. Paul Kahindi Katana, M.P
6. Hon. Charo Kazungu Tungule, M.P
7. Hon. David Kiplagat M.P.
8. Hon. Yusuf Mohamed Farah, M.P

APOLOGIES

1. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
2. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
3. Hon. Sarah Paulata Korere, M.P
4. Hon. Dr. Beatrice Adagala, M.P
5. Hon. Betty Njeri Maina, M.P
6. Hon. Duncan Mathenge Maina, M.P
7. Hon. Ronald Kamwiko Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant I
2. Mr. Andrew Kipchumba - Clerk Assistant III
3. Ms. Angela Musau - Legal Counsel II
4. Ms. Gladwel Amimo - Research officer III
5. Mr. Brian Njeru - Fiscal Analyst III
6. Ms. Roslyn Ndegi - Serjeant at Arms
7. Mr. Collins Mahamba - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. Daniel Kuria - Auditor
2. Mr. Wilson Kamula - Auditor
3. Mr. Felix Itonge - Parliamentary Liaison Officer

THE NATIONAL TREASURY

- Ms. Wendy Nguyu - Officer

Management Response

Following the completion of this excision and the subsequent finalization of the land valuation, the value has now been incorporated into the Authority's financial records.

Committee Observation

The Committee noted the management had done valuation of the land and included in the financial statement for the year 2021/2022, and the OAG confirmed.

Committee Recommendation

The matter stands resolved, however the management to provide a clear copy of the certificate of title.

2.Lack of a Risk Management Policy

The Authority had not developed a documented Risk Management Policy. The Authority had therefore not developed risk management strategies, which include fraud prevention mechanism and a system of risk management and internal controls that builds robust business operations as required under Regulation 165(1) of the Public Finance Management (National Governments) Regulations, 2015.

Management Response

While the Authority did not have a documented Risk Management Policy during the audit period, risk-related matters were being addressed through internal controls and management oversight. Nonetheless a formal Risk Management policy have since been developed and adopted.

Committee Observation

The management had developed and approved a Risk Management Policy ref. LCDA/IRMPF/01/2024.

Committee Recommendation

The matter stands resolved.

3.Staff Establishment

The Staff Establishment of the Authority provides for one hundred and thirty (130) members of staff in various cadres and job groups. However, during the financial year 2018/2019, the Authority had forty-one (41) members of staff. Further, although each Department was supposed to be headed by a Manager, most of the Departments were headed by Assistant Managers in acting capacities. In addition, available information indicated that the Authority advertised for nineteen (19) positions on 30 January, 2018. However, only one position for Regional Manager, Lamu was filled despite interviews having been conducted for all the positions.

The Authority has finalized the lease registration for all regional office spaces, and normal operations are now fully in place.

Committee Observation

The management had rectified the anomaly and the the title deed had the correct name, further, leases for Garissa, Lodwar and Isiolo were provided.

Committee Recommendation

The query stands resolved.

2.Unsupported Board Expenses

Examination of records indicated that a Board Member was paid a total of Kshs.520,800 in respect of sitting allowances, and travel and accommodation allowances while attending Board meetings. However, supporting documents including airplane boarding passes and Board Attendance Register in support of the payments were not provided for audit review.

Management Response

The payment in allowances to a Board member, we confirm that the LCDA Board held meetings outside its registered office locations—such as in Naivasha and Lamu—strictly upon invitation by State Corporations and other relevant institutions. These engagements included induction and training workshops, as well as stakeholder consultation meetings, which are consistent with the official duties outlined under SCAC guidelines.

Committee Observation

The Management had provided documents including the attendance register for the conference attended, however the breakdown of the kshs. 520, 800 was not supported.

Committee Recommendation

The management of LAPSSET were directed to provide the documentation supporting the board expenses amount to kshs. 520,800, the documents be submitted to Clerk's Office and the OAG by 19th June 2025.

3.Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final expenditure budget and actual expenditure on comparable basis of Kshs.381,394,653 and Kshs.331,291,416 respectively resulting to an under expenditure of Kshs.50,103,237 or 13%.

Management Response

The Authority had budgeted for receipts totaling Kshs 381,394,653, while the actual expenditure amounted to Kshs 331,291,416. The resulting under-expenditure was primarily due to two factors; Ongoing Procurement Processes and Closure of Training Institutions due to Covid.

Management Response

The Authority adhered to all established procedures and approvals during the recruitment process, including:

1. Prioritization of recruitment as a strategic response to longstanding understaffing;
2. Obtaining Board and SCAC approvals in line with public sector recruitment guidelines;
3. Observance of the Human Resource Manual provisions prioritizing internal candidates;
4. Transparent internal advertising and suitability assessments conducted by a qualified committee;
5. Selection based on merit, performance history, and institutional needs.

The current approved staff establishment for the Authority stands at 249 positions. However, the number of staffs currently in post are 154.

Committee Observation

- I. The Committee noted the management had sought approvals from the Head of Public Service, the Public Service Commission and its Board for the recruitment.
- II. The Committee was concerned by the swift process it took to recruit the thirty seven officers, and further, the management stated the officers were all working at the Authority during the recruitment process either through secondment, on contract or internship.

Committee Recommendation

The Committee to make recommendation in its report.

6.Unapproved Policy Documents

During the year under review, most of the Authority's policy documents including Internal Controls Manuals, Accounts Manual, ICT Policy and Human Resource Manuals were in draft form. The documents have been in draft form since 2013. The Authority may not, therefore, have maintained an effective system of internal controls as required under Regulation 23(1)(c) of the Public Finance Management (National Government) Regulations, 2015.

Committee Observation

The management did not provide a response, the Committee granted them upto 19/06/2025 to provide the response to the Clerks Office and the OAG.

Committee Recommendation

The Committee advised the management to document a paper detailing how they plan to redefine their future role in terms of sustainability, and submit it to the Committee to be included in the report.

3. Budgetary Control and Performance

Committee Observation

The query had been handled in the FY 19/20.

4. Failure to Withhold Tax on Behalf of a Consultant

The statement of financial performance reflects use of goods and services, the balance includes an amount of Kshs. 10,598,000 paid to a consultancy firm in respect to a contract. However, Kshs. 2,672,883 for withholding tax to Kenya Revenue Authority was not deducted. This was contrary to provisions of The National Treasury Circular No. 15/2019 dated 11 December, 2019.

Committee Observation

The management did not provide a response, the Committee granted them upto 19/06/2025 to provide the response to the Clerks Office and the OAG.

5. Irregular Recruitment of Members of Staff

Committee Observation

The query had been handled in the FY 19/20.

6. Irregular Board Expenses

Committee Observation

The query had been handled in the FY 19/20.

7. Unapproved Expenditure

The statement of comparison of budget and actual amounts reflects over-expenditure of Kshs. 9,484,102 or 80% of the approved budget under two expenditure items.

However, there was no evidence of approval for the excess expenditure of Kshs. 9,484,102 on the two items. This was contrary to Section 44(2) of the Public Finance Management (National Government) Regulations, 2015.

Management Response

The Board expenses rose by 80.34% above the original budget since the Board was tasked with key activities during the Financial year. Further, Repairs and maintenance were occasioned by ageing in assets, which required more frequent and costly interventions than initially projected.

MIN.NO.NA/PIC-CA&E/2025/072: ADJOURNMENT

There being no other business, the meeting was adjourned at 12:52 pm. The next meeting will be held on notice.

Signature 

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 29/7/2025

**MINUTES OF THE 17TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY, 18TH JUNE 2025
IN 4TH FLOOR, CONTINENTAL HOUSE, MAIN PARLIAMENT BUILDINGS AT
10:00 A.M.**

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Dr. Beatrice Adagala, M.P
4. Hon. Esther Muthoni Passaris, M.P.
5. Hon. Paul Kahindi Katana, M.P
6. Hon. Charo Kazungu Tungule, M.P
7. Hon. David Kiplagat M.P.

APOLOGIES

1. Hon. Dr. John Ariko Namoit, M.P. - Vice Chairperson
2. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
3. Hon. Sarah Paulata Korere, M.P
4. Hon. Dr. Babu Owino Paul Ongili, M.P
5. Hon. Betty Njeri Maina, M.P
6. Hon. Duncan Mathenge Maina, M.P
7. Hon. Ronald Kamwiko Karauri, M.P
8. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant I
2. Mr. Andrew Kipchumba - Clerk Assistant III
3. Ms. Angela Musau - Legal Counsel II
4. Ms. Gladwel Amimo - Research officer III
5. Mr. Brian Njeru - Fiscal Analyst III
6. Mr. Kevin Lengasi - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. Daniel Kuria - DDA
2. Mr. Wilson Kamula - DDA
3. Ms. Jackline Omure - Principal Auditor

THE NATIONAL TREASURY

- Ms. Wendy Nguyu - Officer

2. Unsupported Rental Revenue

The statement of financial performance reflects rental revenue amount of Kshs. 36,469,093 which, as disclosed in Note 18.10 to the financial statement, includes Kshs. 33,190,126 earned in five (5) stations. However, the supporting rental revenue schedules for the five stations show revenue amounting to Kshs. 31,587,326, resulting in an unexplained variance of Kshs. 2,008,948.

Management Response

The supporting summary that were given to the auditor were incomplete hence leading to computation of lower expected revenue than the revenue reported during the financial year. A reconciliation was duly undertaken to attest the amount reported in the financial statements. To ensure that rental revenue and supporting schedules are in congruence, the Authority has put in place a system where monthly returns are received from all stations where the Authority has staff houses. These returns form the basis for raising monthly invoices for each occupied house at the beginning of the month to ensure correct revenue figures are posted into the reporting system (ERP).

Committee Observation

The management provided a documentary summary on rent payment in the five locations supporting the payment.

Committee Recommendation

The matter stands resolved.

3. Inaccuracy of Employee Costs

The statement of financial performance reflects employee costs amount of Kshs. 2,633,177,091, an increase by Kshs. 102,288,490 from the Kshs. 2,530,888,601 reported in previous year. However, figure 8 on staff statistics trend, under management discussion and analysis, indicated that the overall increase of staff was by 7 employees (782 in June 2022 – 775 in June 2021), while staff list provided in support of staff statistics indicated there was an increase of 47 employees.

Management Response

The Authority has taken note of this observation and would like to point out that in the total number of staff as at 30th June 2022 as per the payroll report for June 2022 was 782 and that of 30th June 2021 as per the June 2021 payroll report was 775. In the course of the financial year, staff joined and others exited service through resignation, death and retirement. The monthly staff numbers within the course of the financial year are hereby shown.

Committee Observation

- I. The Committee noted the management response provided was insufficient.
- II. The Committee advised the management to provide a clear explanation of the staff fluctuations across the year, further, provide detail analysis (permanent staff/interns) of the staff exiting/entering the service and account for the kshs. 102,228,490 increase in staff costs.

Committee Recommendation

The Committee directed the management to resubmit their response, focusing mainly on the specific matter raised in the query and submit to the Clerk's Office and the OAG by 25th June 2025 for verification.

The is a recurring query and had been handled in previous financial year.

6. Plant, Property and Equipment

6.1 Motor Vehicles Excluded from Property, Plant and Equipment

The balance of Kshs.17,803,708,412 includes motor vehicles balance of Kshs.78,527,760 which excludes Kshs.6,300,000 relating to the following vehicles:

Make	Cc	Body Type	Year	Amount (Kshs.)
Toyota Hiace	2.5 diesel	microbus	2018	3,300,000
Toyota Hiace	2.5 diesel	microbus	2018	3,000,000
				6,300,000

Management Response

The omission from the Authority's financial statements arose from the revaluation exercise carried out in 2018/19 financial year that inadvertently left out them out of the records that were taken then by a consultant. The vehicles were brought into the Authority's financial statements in the 2022/23 financial year and in the subsequent revaluation exercise that was done in 2023/24 financial year, these vehicles were revalued once again and they are now well reflected in the financial statements.

Committee Observation

The motor vehicles have been included in the financial statement of FY 2022/23, and revaluation of the cars done in the FY 2023/24.

Committee Recommendation

The query stands resolved.

6.2 Lack of Ownership Documents for Lands and Buildings:

Committee Observation

The is a recurring query and had been handled in previous financial year.

6.3 Parcels of Land Allocated to Third Parties

Committee Observation

The is a recurring query and had been handled in previous financial year.

7. Unsupported Gain on Sales of Assets

The statement of financial performance reflects net gain on sale of assets amount of Kshs.3,384,354 which, as disclosed in Note 18.20 to the financial statements, comprises gain on sale of assets amount of Kshs.5,057,717 and loss on sale of assets amount of Kshs.1,673,363. The schedule provided in support of the amount of Kshs.5,057,717 shows a gain of Kshs.602,969 for a Toyota Hilux-D/Cab. However, no cost, accumulated depreciation and net book value were provided in the schedule and, therefore, it was not possible to confirm how the amount of the gain was arriving at.

international inspections. In other instances, the affected officers fail to apply for subsistence allowances in good time. In all instances the Authority ensures payment of substance allowance is in line with the set regulations and circulars.

Committee Observation

- I. The Committee noted the response provided was insufficient.
- II. The Committee inquired from the management if they had a policy on flight ticket cancellation.

Committee Recommendation

- I. The Committee directed the management to resubmit their response and provide evidence, focusing mainly on the specific matter raised in the query.
- II. The Management to be scheduled to appear before the Committee.

9. Inaccuracies in the Statement of Cash Flow

The following inaccuracies were noted in the statement of cash flows:

Item	Amount as per Statement of Cash Flows (Kshs)	Amount Recomputed (Kshs)	Variance (Kshs)
Operating Cash Flow before Working Capital Changes	961,160,267	967,928,975	(6,768,708)
Increase in Receivables (Exchange Transactions)	(506,697,745)	(308,206,335)	(198,491,410)
Increase in Employee Benefit Obligation	46,244,427	50,058,518	(3,814,091)
Increase in Current Provision	1,638,484,323	1,891,866,182	(253,381,859)
Net Cash from Operating Activities	2,019,931,072	2,481,848,782	(461,917,710)
Increase in Cash and Cash Equivalents	1,390,174,447	1,852,092,157	(461,917,710)
Cash and Cash Equivalents at the end of the year	3,163,103,315	3,625,021,025	(461,917,710)

In the circumstances, the accuracy of the statement of cash flows could not be confirmed.

Management Response

The Cash Flow Statement initially had some typographical errors which were not noticed early enough to enable correction. The issue was picked at the last stage of the audit process. However, the closing balance of Cash and Cash equivalent at the 30th June 2022, as the audited financial statements of Kshs 3,163,103,315 as at 30th June 2022 is correct and dully supported by the underlying records and is the basis of the financial year 2022/23.

Committee Observation

The Committee noted the errors were corrected in the cash flow statement.

The Authority undertook a reconciliation of the outstanding amount in the respective ledgers and they were paid and adjusted accordingly in the subsequent financial years.

Committee Observation

The Committee noted the management had not provided payment details to the respective government agencies.

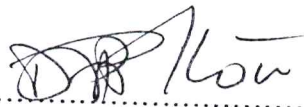
Committee Recommendation

The management to submit the payment vouchers to the OAG for verification by 25th June 2025.

MIN.NO.NA/PIC-CA&E/2025/077: ADJOURNMENT

There being no other business, the meeting was adjourned at 11:53 am. The next meeting will be held on notice.

Signature



HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date

29/07/2025

MINUTES OF THE 18TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY, 26TH JUNE 2025 IN
4TH FLOOR, CONTINENTAL HOUSE, MAIN PARLIAMENT BUILDINGS AT 10:00
A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Dr. John Ariko Namoit, M.P. - Vice Chairperson
3. Hon. Dr. Babu Owino Paul Ongili, M.P.
4. Hon. Esther Muthoni Passaris, M.P.
5. Hon. David Kiplagat M.P.
6. Hon. Duncan Mathenge Maina, M.P.
7. Hon. Yusuf Mohamed Farah, M.P.

APOLOGIES

1. Hon. Dr. Adan Keynan Wehliye, CBS, M.P.
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P.
3. Hon. Sarah Paulata Korere, M.P.
4. Hon. Dr. Beatrice Adagala, M.P.
5. Hon. Paul Kahindi Katana, M.P.
6. Hon. Charo Kazungu Tungule, M.P.
7. Hon. Betty Njeri Maina, M.P.
8. Hon. Ronald Kamwiko Karauri, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Wanjiru Mwaura - Principal Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant I.
3. Mr. Andrew Kipchumba - Clerk Assistant III
4. Ms. Angela Musau - Legal Counsel II
5. Ms. Gladwel Amimo - Research officer III
6. Mr. Brian Njeru - Fiscal Analyst II
7. Ms. Mercyline Kerubo - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. Daniel Kuria - DDA
2. Mr. James Ndumo - Officer
3. Ms. Jackline Omure - Principal Auditor

Management Response

The management acknowledges that the Statement of Comparison of Budget and Actual Amounts did not disclose the percentages of underfunding and under expenditure, which has since been noted for correction in future financial reporting to enhance transparency and ease of analysis.

The underfunding was primarily due to, lower-than-expected disbursements from the National Treasury. This factor was beyond the control of the Authority and directly impacted the availability of resources to implement planned activities.

The Authority has strengthened its collaboration with The National Treasury to enhance the predictability and timeliness of disbursements. Additionally, budget planning processes have been improved to include more accurate revenue forecasting.

The Authority currently prepares its financial statements in compliance with IPSAS requirements, including the disclosure of percentage variances.

Committee Observation

The Committee noted the underfunding and percentage of underfunding in the budget had been properly addressed, however the under-expenditure of the disbursed amount had not been addressed.

Committee Recommendation

- I. The Committee directed the management to provide proper response with evidence regarding the un-utilized Kshs. 466,871,346 of the disbursed amount.
- II. The response to be submitted to the Clerk's Office and the OAG by 4th July 2025 for verification.

2. Mismanagement in Issuance of Imprest

The statement of financial position reflects receivables from non-exchange transactions of Kshs. 7,797,824 which represents outstanding imprest that ought to have been surrendered on 30 June, 2020 but were still outstanding as at the end of the financial year. Further, two officers were issued with additional imprests without accounting for previous imprest issued to them contrary to Section 92(4)(b) and (5) of the Public Finance Management Regulations, 2015 which states that before issuing temporary imprests the Accounting Officer shall ensure that the applicant has no outstanding imprests and that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

Management Response

We acknowledge that two officers were issued with additional imprests without having accounted for their previous imprests, contrary to the provisions of Section 92(4)(b) and 92(5) of the Public Finance Management (National Government) Regulations, 2015.

- I. The Committee directed the management to provide a list of consumables amounting to Kshs. 541,143.
- II. The response to be submitted to the Clerk's Office and the OAG by 4th July 2025 for verification.

6. Use of Goods and Services

Review of the expenditure records revealed the following anomalies;

i. Irregular Domestic Travel and Subsistence Expenditure

The expenditure includes amounts totaling Kshs.7,443,400 and Kshs.3,400,400 incurred on facilitation of officers from the State Department for Housing and Urban Development and on a retreat of a Parliamentary Committee respectively. No explanation on why the expenditure was charged to the Authority yet the State Department and the Parliamentary Service Commission have respective allocated budgets to cater for their activities.

In addition, amounts totaling to Kshs. 11,496,731 were paid to two officers on various dates and whose details on the nature of the activities undertaken were not provided.

Management Response

The inclusion of these expenditures under the Authority's budget was based on the collaborative nature of the activities undertaken, which were directly related to the Authority's mandate and strategic objectives. The facilitation of the State Department officers was in support of joint programs and technical engagements aligned with the Authority's implementation responsibilities, while the Parliamentary Committee retreat was part of stakeholder engagement and oversight processes involving matters under the Authority's purview.

Committee Observation

The Committee inquired whether the expenditure was contained in the budget and who organized for the stakeholder engagement event.

Committee Recommendation

- I. The Committee directed the management to submit proof that Kshs.7,443,400 and Kshs.3,400,400 was approved in the line budget for stakeholder engagement activities, further, provide document detailing who organized the events.
- II. The response to be submitted to the Clerk's Office and the OAG by 4th July 2025 for verification.

ii. Unsupported Foreign Travel and Subsistence Expenses

The expenditure on use of goods and services includes foreign travel and subsistence allowance of Kshs.4,336,714. However, review of the expenditure records revealed that expenditure amounting to Kshs.3,404,034 was incurred on purchase of air tickets. It is however, not clear where the respective foreign subsistence allowances were accounted.

Management Response

1,660,000 was in respect to expenses incurred in the financial year 2020/2021. No explanation was provided for the anomaly.

Management Response

While the expenditures were legitimate and directly related to board activities, we acknowledge that they should have been recognized in the financial year to which they relate; however, the Authority was using a Cash basis of accounting that required an expenditure to be recognized once the payment was made and therefore the expenditure could not be accounted for in 2020/2021. However, it was moved to the subsequent year when the Authority adopted the accrual basis of accounting, as prescribed by the applicable financial reporting framework.

Committee Observation

The Committee noted the anomaly was due to migration from cash accounting basis to accrual basis, nonetheless the expense was recognized in the subsequent year.

Committee Recommendation

The matter stands resolved.

8. Unapproved Over Expenditure

The statement of comparison of budget and actual amounts reflects final recurrent expenditure budget and actual on comparable basis of Kshs.80,000,000 and Kshs. 111,174,112 respectively resulting in an over-expenditure of Kshs.31,174,112 or 39% of the budget. Similarly, the Authority spent Kshs.2,491,693,105 on capital or development expenditure against an approved budget of Kshs.700,000,000 resulting to an over-expenditure of Kshs. 1,791,693,105 or 256% of the budget. Management did not provide the approval for the over-expenditure of Kshs. 1,822,867,217.

Management Response

The significant variance in capital expenditure was primarily due to a shift from cash-based accounting to the accrual basis. Initially, the figure was recognized after cash had been paid to the contractor, and not the value of the work that was certified comprising of IPC 02, 03, 04 and 05. By preparing the financial statements on an accrual basis, the value of work certified had to be recognized, and hence, the unpaid amount becomes an amount payable.

The recurrent expenditure overrun was supported by an approval through the office of the PS Housing is allowed by allowed by Section 43(2) of the Public Finance Management Act to reallocate appropriate funds to or from a program or a sub-vote.

Committee Observation

The Committee noted the management had provided interim payment certificate for the works done, however they did not provide the approval from the Principal Secretary for the over expenditure.

10. Irregular Payment of Acting Allowances

During the year under review, the Authority incurred Kshs.23,028,883 on acting allowances for staff deployed to the Authority in an acting capacity from the State Departments and the Counties within the Metropolitan Area. Most of these staff were deployed in the Authority in the year 2017 and therefore have been on acting capacity for over four (4) years contrary to the recommendation of Human Resource Policies and Procedures Manual for the Public Service, May, 2016 that stipulates that acting allowance should not be payable to an officer for more than six (6) months.

Further, the allowances paid as acting allowances to staff amounting to Kshs.23,542,883 were not subjected to income tax as required by Section 37 (1) of the Income Tax Act Cap 470 of the laws of Kenya that states that an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

Management Response

According to clause 4.6.5 of the NaMATA HR Manual, an appointment on an acting basis shall be limited to six months OR until a vacant post is filled, whichever is earlier, **BUT may be extended by the Board or the Director General if the post remains vacant as captioned hereunder.**

The deployed staff were still performing duties of higher posts with the consent of the Board and the Director General. The positions remained vacant and thus officers were entitled to the payment of acting allowances. The payment of the acting allowances was therefore consistent with the provisions of the Authority's HR Manual.

Committee Observation

The Committee noted the management had not provided evidence for the approval of extension of acting positions beyond the stipulated six months. Further, the management did not respond to non-payment of the income tax.

Committee Recommendation

- I. The Committee directed NaMATA to submit the Board resolution extending the contracts and provide response to non-payment of income tax.
- II. The response to be submitted to the Clerk's Office and the OAG by 4th July 2025 for verification.

11. Composition of the Board of Directors

Review of composition of the current Board of Directors indicates that it does not include three (3) independent persons who are to be appointed by virtue of their knowledge and experience in transport, law, intelligent transport systems, civil engineering, traffic engineering, economics, urban design, planning and management or any other relevant field as required by Section 8(1)(f) of the Nairobi Metropolitan Area Transport Authority Order, 2017.

Management Response

13. Failure to Automate Operations

Review of the Authority's operation environment and record keeping revealed that financial and accounting records are managed and maintained manually. Financial reports, ledgers, trial balance, budgets and financial statements were prepared manually which makes them prone to errors and manipulation. Further, there was no evidence of information protection or back up.

Management Response

The concern raised regarding the lack of evidence for information protection and data backup systems. Ensuring the integrity, confidentiality, and availability of financial data is of utmost importance to the Authority.

The transition to a computerized accounting system has been fully planned. The Authority has selected a vendor and is in the final stages of implementation.

Committee Observation

The management informed that they had procured a vendor to automate the system and plan to migrate to the system in July 2025.

Committee Recommendation

The Committee directed the OAG to check the status of the automation in the subsequent audit cycle.

14. Failure to Update the Authority's Asset Register

Review of the asset register provided for audit revealed that assets procured during the period between 1 January, 2022 and 30 June, 2022 had not been updated. Further, the asset register did not include the assets' serial number(s) or tag number(s) for identification as required by the Public Procurement and Asset Disposal Regulations, 2020.

Management Response

It is correct that assets procured between 1 January 2022 and 30 June 2022 had not been updated in the register at the time of the audit. We also recognize that the omission of serial numbers and tag numbers for identification purposes does not align with the requirements of the Public Procurement and Asset Disposal Regulations, 2020.

Management Response

The Authority acknowledges the observation regarding the reallocation of funds and the requirement for documented approval from the National Treasury in accordance with Regulation 44(2) of the Public Finance Management (National Government) Regulations, 2015. However, contrary to the assertion, the budget reallocation was duly approved by the National Treasury.

Committee Observation

The management provided a budget approval letter from the Cabinet Secretary dated 3/4/2023.

Committee Recommendation

The matter stands resolved.

17. Stalled Implementation of Bus Rapid Transport (BRT) Line 2 Project

Committee Observation

This is a recurring query and was handled in the FY 21/22


18. Failure to Automate Operations

Committee Observation

This is a recurring query and was handled in the FY 21/22

MIN.NO.NA/PIC-CA&E/2025/082: ADJOURNMENT

There being no other business, the meeting was adjourned at 01:00 pm. The next meeting will be held on notice.

Signature 

HON. DAVID PROSING, CBS, M.P.
(CHAIRPERSON)

Date..... 29/07/2025

MINUTES OF THE 4TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON
COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY, 8TH FEBRUARY, 2024
IN FAHARI CONFERENCE ROOM, SAROVA WHITESANDS, MOMBASA AT 10:00
A.M.

PRESENT

- | | | |
|--|---|--------------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. Dr. Adan Wehliye Keynan, CBS, MP | | |
| 3. Hon. Mwangi Kiunjuri, EGH, MP | | |
| 4. Hon. Dr. Beatrice Kahai Adagala, MP | | |
| 5. Hon. Paul Kahindi Katana, MP | | |
| 6. Hon. Charo Kazungu Tungule, MP | | |
| 7. Hon. John Machua Waithaka, MP | | |
| 8. Hon. Marianne Jebet Kitany, MP | | |
| 9. Hon. Peter Irungu Kihungi, MP | | |
| 10. Hon. Yusuf Mohamed Farah, MP | | |

APOLOGIES

- | | | |
|--|---|-------------------------|
| 1. Hon. Dr. Lilian Achieng Gogo, MP | - | Vice Chairperson |
| 2. Hon. James Opiyo Wandayi, EGH, MP | | |
| 3. Hon. Sarah Paulata Korere, MP | | |
| 4. Hon. Dr. Babu Owino Paul Ongili, MP | | |
| 5. Hon. Ronald Kamwiko Karauri, MP | | |

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Ahmad Guliye | - | Clerk Assistant II |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Angela Musau | - | Legal Counsel |
| 4. Ms. Gladwell Amimo | - | Research Officer III |
| 5. Mr. Murimi Mwangi | - | Media Relations officer III |
| 6. Mr. Yeziel Jillo | - | Serjeant at Arms |
| 7. Ms. Mercyln Kerubo | - | Audio Officer |

OFFICE OF THE AUDITOR-GENERAL

- | | | |
|-----------------------|---|-------------------------------|
| 1. Mr. Paul Nzioka | - | Deputy Director Audit |
| 2. Mr. Simon Kamau | - | Principal Auditor |
| 3. Mr. Henry Manegene | - | Parliamentary Liaison Officer |

INSPECTORATE OF STATE CORPORATION

- | | | |
|---------------------|---|---------|
| 1. Mr. John Karanja | - | Officer |
|---------------------|---|---------|

The management of KPA led by the Managing Director Capt. William Ruto appeared before the Committee to adduce evidence related to queries raised by the Auditor General for the FY 2019/2020 and FY 2020/2021.

FY 2019/2020

1. Un-confirmed Establishment Expenses

1.1. Basic Salary Paid for Hours not Worked

Audit review of records revealed that basic salary was paid based on the hours worked as clocked in the time management system. However, the Management approved payment for hours not worked when staff came to work late (authority to work) and when staff left work before time (staff release) in calculating basic pay for staff. This resulted in payment of salaries amounting to Kshs 312,021,986 for hours not worked.

Further, time management records provided for audit review indicated that two hundred and thirty-nine (239) employees were absent for a continuous period of more than ten days each resulting to 78,456 hours lost through staff absenteeism. However, the employees were paid their full salaries and allowances totaling Kshs 36,780,469.

In addition, recruitment documents provided for audit review revealed that the Authority engaged five (5) employees in management positions. However, the employment terms were revised without Board approval after employees had accepted the employment offer

Management Response

The Authority used the SAP time Management system which automatically pays staff based on the hours worked, evidenced by clocking in time and clocking out time. If an employee comes to work late the Supervisor can maintain (authority to work) and when a staff leaves work before time the supervisor maintains (staff release). This is to ensure that payment is only done for the actual hours worked.

Kshs 312,021,986 was paid to employees who were on (staff release) and on (authority to work) both maintained by their supervisors for various reasons.

During the year under review, there was a global outbreak of Covid-19 pandemic which caused disruptions in normal working arrangements, thus some staff worked from home and curfew affected movement.

On the issue of absenteeism, for the 239 employees who were absent for a continuous period of more than 10 days Recoveries were done from payroll. In addition, disciplinary Action was also taken against absenteeism cases which included salary stoppage.

Further, included in the overtime allowances of Kshs 2,441,884,000 is Kshs 384,567,260, relating to third-shift allowances. However, review of payroll records indicated that the third-shift allowances paid were calculated at a rate of three percent (3%) of basic pay for every day worked resulting to a payment of Kshs 54,643,899. This is contrary to the Collective Bargaining Agreement of 2018/2019 Paragraph 14(e) which states that, 'third shift is regarded as a normal shift like the first and second shifts but due to the odd hours worked, the compensation is 15% of the basic monthly salary'.

Management Response

There were occasions when Port operations and security areas demanded that the provided set overtime payment limits be exceeded. The port being a 24/7 working area requires that all operational and security areas are catered for except on labour and Christmas days. Based on the current 7/2 working arrangements which caters 4 shifts instead of 3 shifts, staff are required to rest for two days in any seven days of the week. Current staff numbers necessitate recalling staff to cater for the recall days.

The 30% and 20% Cap on operational and administrative overtime respectively did not meet the working requirements in view of the business demand and current staff levels.

Committee Observations

- I. The Committee observed that staff shortage in the institution and increased operations at the port due to commencement of the SGR operations without employing new employees led to many staff working extra hours and thus increase in overtime allowances.
- II. The Committee noted that KPA operated on a-four shift system, and employee work for five days in a week with no overtime, however overtime is earned when an employee works in a shift on the extra two days of the week which are considered rest days.
- III. The Committee opined that there was need for KPA to develop a clear road map to eliminate the payment of overtime allowances, and the management of KPA stated they were planning to employ new staff and will seek the assistance of Parliament to fastrack the process.
- IV. The Committee was concerned that the management paid the allowances in the period between January 2020-June 2020 without any reference document given that the CBA for 2018-2019 had expired and the new CBA 2020-2023 had not been signed. However the management informed the Committee the negotiations were ongoing for the new CBA, and they used it to pay the allowances as there was a vacuum on the document to be used.
- V. The Management tabled a Collective Bargaining Agreement for the period 2020/2023, signed on 22nd December 2021 whose effective date was backdated to 1st January 2020.

Committee Recommendation

The audit query stands resolved as sufficient evidence was provided.

MINUTES OF THE 5TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON
COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY, 8TH FEBRUARY, 2024
IN FAHARI CONFERENCE ROOM, SAROVA WHITESANDS, MOMBASA AT 2:30
P.M.

PRESENT

- | | | |
|--|---|--------------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. Dr. Adan Wehliye Keynan, CBS, MP | | |
| 3. Hon. Mwangi Kiunjuri, EGH, MP | | |
| 4. Hon. Dr. Beatrice Kahai Adagala, MP | | |
| 5. Hon. Paul Kahindi Katana, MP | | |
| 6. Hon. Charo Kazungu Tungule, MP | | |
| 7. Hon. John Machua Waithaka, MP | | |
| 8. Hon. Marianne Jebet Kitany, MP | | |
| 9. Hon. Peter Irungu Kihungi, MP | | |
| 10. Hon. Yusuf Mohamed Farah, MP | | |

APOLOGIES

- | | | |
|--|---|-------------------------|
| 1. Hon. Dr. Lilian Achieng Gogo, MP | - | Vice Chairperson |
| 2. Hon. James Opiyo Wandayi, EGH, MP | | |
| 3. Hon. Sarah Paulata Korere, MP | | |
| 4. Hon. Dr. Babu Owino Paul Ongili, MP | | |
| 5. Hon. Ronald Kamwiko Karauri, MP | | |

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Ahmad Guliye | - | Clerk Assistant II |
| 2. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 3. Ms. Angela Musau | - | Legal Counsel |
| 4. Ms. Gladwell Amimo | - | Research Officer III |
| 5. Mr. Murimi Mwangi | - | Media Relations officer III |
| 6. Mr. Yeziel Jillo | - | Serjeant at Arms |
| 7. Ms. Mercyln Kerubo | - | Audio Officer |

OFFICE OF THE AUDITOR-GENERAL

- | | | |
|-----------------------|---|-------------------------------|
| 1. Mr. Paul Nzioka | - | Deputy Director Audit |
| 2. Mr. Simon Kamau | - | Principal Auditor |
| 3. Mr. Henry Manegene | - | Parliamentary Liaison Officer |

INSPECTORATE OF STATE CORPORATION

- | | | |
|---------------------|---|---------|
| 1. Mr. John Karanja | - | Officer |
|---------------------|---|---------|

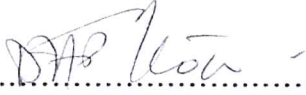
Members moved an adjournment motion to give KPA more time to provide adequate responses and appendices.

Committee Recommendation

- I. The Committee directed the management to submit the documents requested by the committee by 22nd February 2024, and ensure management responses are submitted to Parliament and the Office of the Auditor General two days prior to the next meeting with the Committee.
- II. KPA to submit a schedule detailing a breakdown of the 239 employees in the categories of those who were given permission to be out of duty and the ones who were absent from duty without permission.
- III. KPA to submit documentary evidence, showing the authority from the Board to the Managing Director to revise the terms of employment of the five staff in management positions.
- IV. KPA to submit the authority allowing the payment of overtime allowances of staff in training grades category.

MIN.NO.NA/PIC-CA&E/2024/025: ADJOURNMENT

The meeting was adjourned 03:30pm, the next meeting will be held on notice.

Signature 

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 19/3/2024

**MINUTES OF THE 21ST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY, 8TH MAY 2024 IN
BAOBAB CONFERENCE ROOM, SERENA HOTEL, MOMBASA AT 10:00 A.M.**

PRESENT

- | | | |
|--|---|--------------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. James Opiyo Wandayi, EGH, MP | | |
| 3. Hon. Dr. Adan Wehliye Keynan, CBS, MP | | |
| 4. Hon. Sarah Paulata Korere, MP | | |
| 5. Hon. Dr. Babu Owino Paul Ongili, MP | | |
| 6. Hon. Paul Kahindi Katana, MP | | |
| 7. Hon. Charo Kazungu Tungule, MP | | |
| 8. Hon. John Machua Waithaka, MP | | |
| 9. Hon. Marianne Jebet Kitany, MP | | |
| 10. Hon. Peter Irungu Kihungi, MP | | |
| 11. Hon. Ronald Kamwiko Karauri, MP | | |

APOLOGIES

- | | | |
|--|---|-------------------------|
| 1. Hon. Dr. Lilian Achieng Gogo, MP | - | Vice Chairperson |
| 2. Hon. Mwangi Kiunjuri, EGH, MP | | |
| 3. Hon. Dr. Beatrice Kahai Adagala, MP | | |
| 4. Hon. Yusuf Mohamed Farah, MP | | |

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 3. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 4. Ms. Angela Musau | - | Legal Counsel II |
| 5. Ms. Gladwel Amimo | - | Research officer III |
| 6. Mr. Brian Njeru | - | Fiscal Analyst III |
| 7. Ms. Roselyne Ndegi | - | Serjeant at Arms |
| 8. Ms. Deborah Mupusi | - | Media Relations Officer |
| 9. Ms. Kerubo Mercyln | - | Audio Officer |
| 10. Ms. Alice Gicheha | - | Intern |

OFFICE OF THE AUDITOR-GENERAL

- | | | |
|---------------------------|---|-------------------------------|
| 1. Mr. Mark Gitenya Omare | - | Auditor |
| 2. Mr. Simon N. Kamau | - | Auditor |
| 3. Mr. Henry Manegene | - | Parliamentary Liaison Officer |

MIN.NO.NA/PIC-CA&E/2024/106: CONFIRMATION OF MINUTES

This agenda item was deferred to the next meeting.

MIN.NO.NA/PIC-CA&E/2024/107: MEETING WITH THE MANAGING DIRECTOR, KENYA PORTS AUTHORITY (KPA) TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2019/2020 TO FY 2020/2021.

The management of Kenya Ports Authority, led by the Managing Director Captain William K. Ruto appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2019/20 to FY 2020/21.

1. Un-Confirmed Licenses Revenue

A review of the license agreement dated 21 September, 2007 between Kenya Ports Authority (KPA) and African Gas and Oil Company Limited indicated that the Company was to pay a license fee in US Dollars for an amount equal to twenty-five percent (25%) of the Company's revenue derived directly from each tonne of LPG discharged, payable on a quarterly basis. Records provided for audit indicated that KPA charged the license fees based on a calculation of estimated service revenue of the Company charged at US Dollars twenty- two and sixty-five cents (USD22.65) exclusive of taxes for each tonne of LPG discharged at the facility as per Clause 7.7 of the Agreement without verifying the actual revenue of the Company. The rate charged was US Dollar one cent (USD 0.01) higher than the US Dollar twenty-two and sixty-four cents (USD22.64) provided in the agreement. However, KPA did not provide evidence that this was the service fee charged by the Company to base the revenue billed on the same.

Management Response

African Oil and Gas Ltd (AGOL) remits to the Authority every quarter a Quarter of their annual revenue share generated from the use of the facility as provided for under clause 7 of the License Agreement. The data of the actual units handled was certified by an independent surveyor before being submitted to the Authority for revenue recognition. During FY 2019-2020 a total of Kshs 166,577,228 was earned as revenue.

Further, the Agreement provides a rate of USD 22.64 per ton. The tonnages were provided in three decimal places. Africa Oil and Gas Ltd computation and remittances were rounded up to two decimal places resulting in USD 22.65 per ton. The rounding up increased the rate by 0.01.

Committee Observation

The Committee noted the management had provided annual service bill certificates of actual revenue of AGOL on a quarterly basis for the financial year under review.

Committee Recommendation

The Committee directed the OAG to confirm the figures in the actual revenue vis-a-vis the estimated revenue, and report back to the Committee.

Committee Recommendation

The Committee was satisfied with response provided and cleared the audit query.

4. Unsupported Expenditure

4.1. Fuel Expenses

During the year under review, Management issued fuel purchase orders for Kshs.295,355,691. Although the Authority migrated from purchase order system to pipeline system during the year under review, evidence of fuel usage and invoice details on the new system were not provided for audit review. Further, the Authority requested for exemption from the Head of Public Service Circular. No. OP/CAB.9/108A of 30 April, 2015 which directed Ministries and Government Agencies to liaise and negotiate with the National Oil Corporation of Kenya (NOCK) for supply of fuel through a letter Ref. PSM/PC/3/06 of 27 December, 2019. However, approval of the request was not provided for audit review.

Management Response

Local Purchase Orders (LPOs) worth Kshs. 295,355,691 were issued to Fossil Supplies Limited. This was done outside the pipeline system. The LPOs were issued using material codes different from the pipeline process. The supplies were awarded as a stopgap measure since the Authority was dissatisfied with the level of services it was receiving from the National Oil Corporation of Kenya (NOCK). This move was intended to avert disruption of services.

LPOs were stopped from being issued to fuel vendors since the price of fuel keeps on fluctuating on monthly basis hence the Authority opted for the pipeline payment system i.e. the payment is done by inputting the current prices submitted by the vendor from the Regulating Authority which is done from our central stores.

The direct Procurement Method was used due to urgency as a stop-gap measure. NOCK had failed to deliver on several occasions' contrary to the contract. In addition, there were unresolved issues of supply of adulterated fuel from NOCK to the Authority tugboat Duma II which was grounded for 45 days and other similar injustices meted on the Authority.

The Authority sought intervention from the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works vide a letter dated 25th June 2019, but no response was received. The Authority opted for open tender method for procurement of fuel vendor since that was the only way of obtaining a supplier who possessed the requisite infrastructure and resources to serve the port in a manner above what we had received from NOCK.

Committee Observation

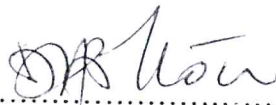
- I. The Committee noted the management had provided extracts of the invoices that were used to settle fuel expenses, however KPA contracted Fossil Supplies Limited through direct procurement and this was necessitated by incapacity of NOC to supply the fuel.

- i. The Articles of Association for M/s Koornamme Ladies Welfare group
- ii. The CR-12 for Koorname Investment Limited.
- iii. The VAT registration of M/s Koornamme Ladies Welfare group.
- iv. The Contract awarded to M/s Koornamme Ladies Welfare group for the repair, renovations and rehabilitation of Kisumu Pier and Dock infrastructure.

MIN.NO.NA/PIC-CA&E/2024/108: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at 2:02 pm. The next meeting will be held on notice.

Signature



**HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)**

Date.....

19/6/24

MINUTES OF THE 22ND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY, 8TH MAY 2024 IN
BAOBAB CONFERENCE ROOM, SERENA HOTEL, MOMBASA AT 3:00 P.M.

PRESENT

- | | | |
|--|---|-------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. James Opiyo Wandayi, EGH, MP | | |
| 3. Hon. Dr. Adan Wehliye Keynan, CBS, MP | | |
| 4. Hon. Sarah Paulata Korere, MP | | |
| 5. Hon. Dr. Babu Owino Paul Ongili, MP | | |
| 6. Hon. Paul Kahindi Katana, MP | | |
| 7. Hon. Charo Kazungu Tungule, MP | | |
| 8. Hon. John Machua Waithaka, MP | | |
| 9. Hon. Marianne Jebet Kitany, MP | | |
| 10. Hon. Peter Irungu Kihungi, MP | | |
| 11. Hon. Ronald Kamwiko Karauri, MP | | |

APOLOGIES

- | | | |
|--|---|------------------|
| 1. Hon. Dr. Lilian Achieng Gogo, MP | - | Vice Chairperson |
| 2. Hon. Mwangi Kiunjuri, EGH, MP | | |
| 3. Hon. Dr. Beatrice Kahai Adagala, MP | | |
| 4. Hon. Yusuf Mohamed Farah, MP | | |

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 3. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 4. Ms. Angela Musau | - | Legal Counsel II |
| 5. Ms. Gladwel Amimo | - | Research officer III |
| 6. Mr. Brian Njeru | - | Fiscal Analyst III |
| 7. Ms. Roslyn Ndegi | - | Serjeant at Arms |
| 8. Ms. Deborah Mupusi | - | Media Relations Officer |
| 9. Ms. Kerubo Mercyln | - | Audio Officer |
| 10. Ms. Alice Gicheha | - | Intern |

OFFICE OF THE AUDITOR-GENERAL

- | | | |
|---------------------------|---|-------------------------------|
| 1. Mr. Mark Gitenya Omare | - | Auditor |
| 2. Mr. Simon N. Kamau | - | Auditor |
| 3. Mr. Henry Manegene | - | Parliamentary Liaison Officer |

THE NATIONAL TREASURY

- | | | |
|-------------------|---|----------------------------|
| Ms. Cheryl Majiwa | - | Senior Investments Officer |
|-------------------|---|----------------------------|

MIN.NO.NA/PIC-CA&E/2024/112:

MEETING WITH THE MANAGING
DIRECTOR, KENYA PORTS
AUTHORITY (KPA) TO EXAMINE THE
AUDITED ACCOUNTS FOR THE FY
2019/2020 TO FY 2020/2021.

The management of Kenya Ports Authority, led by the Managing Director Captain William K. Ruto resumed to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2019/20 to FY 2020/21.

1.Unclaimed Value-Added Input Tax

Included in these administrative expenses was input Value Added Tax (VAT) of Kshs.26,893,244 which was expensed instead of being claimed during the year under review. However, it was not clear why manual invoices were received and settled without the accompanying tax invoices, resulting in VAT input tax losses of Kshs.26,893,244. The Management explained that the VAT was expensed following expiry of six months before claiming the same due to un-availability of tax invoices thus becoming time barred as per VAT Act 2013 Section 17(2) which states in part, 'provided that the input tax shall be allowable for a deduction within six months after the end of the tax period in which the supply or importation occurred.'

Management Response

Input VAT amounting to Kshs 26,893,244 was expensed during the year since it could not be offset against the Output VAT. The Authority was barred from offsetting the input VAT as the invoices were processed beyond the six months period allowed for offsetting the input VAT. Where the input VAT is not deductible, the Income Tax Act under section 15 allows it to be expensed as expenditure wholly and exclusively incurred in the production of income. There were several reasons for not offsetting the input VAT.

All invoices submitted and processed for payment were proper tax invoices contrary to the observation by the Auditor that manual invoices were received and settled without the accompanying tax invoices.

Committee Observations

- I. The Committee observed that the delays were occasioned by late submission of invoices by vendors, and the management were advised to improve their systems in order to eliminate such avoidable losses.
- II. The OAG informed the Committee that in the subsequent year audit the management had improved their accounting processes as the losses had significantly reduced.

Committee Recommendations

The Committee resolved to make recommendations during its report writing.

2.Inclusion of Bandari Maritime College Expenditure

transactions and other events are recognized during the period when they occurred. Expenses are accrued to comply with the matching concept of accounting and IAS No.8 on accounting estimates.

Therefore, the Kshs 409,925,742 was accrued only after giving reference to the relevant LPO or correspondence with evidence of actual services provided or work commencement to third parties by the Authority. Accruals were reversed in the subsequent financial year when the invoices were received and processed.

Committee Observation

The Management had provided delivery notes and other relevant documents to the OAG related to unsupported trade and other payables.

Committee Recommendations

The Committee was satisfied with the response provided and cleared the audit query.

4. Accrued Liability for Defined Contribution (DC) members.

The statement of financial position as at 30 June 2020 reflects retirement benefits non-current liability of Kshs 3,374,400,000 and current liability of Kshs 535,200,000, all totaling Kshs 3,909,600,000. Audit review of the actuarial valuation report of the scheme indicates a total of 3,490 active members in the defined benefit scheme, out of whom 2,675 are members who moved to the defined contribution although a portion of their pension benefits was still held in the defined benefits scheme.

However, the actuarial valuation report indicated that the valuation of assets was based on 3490 members instead of 795 members, contrary to The National Treasury Circular Ref. No EPN 171/07 Vol Q (94) dated 16 June 2011 which directed the Authority not to grant revaluation to those who choose to move to the DC Scheme or to those who had to move to the DC Scheme because they were below 45 years. The valuation may have been materially overstated by inclusion of outstanding defined benefits portions retained when the members moved to the defined contribution scheme.

Management Response

The National Treasury Circular No. 18 of 2010 required all government entities' Pension Schemes to convert from DB Schemes to DC schemes. KPA Pension Scheme was under-funded and therefore could not be converted fully to DC Scheme.

Further, the National Treasury circular No. 18 of 2010 indicated that "the conversion process will be guided by the provisions of the RBA Act, Regulations and guidelines issued by the RBA. The Retirement Benefits Authority issued Prudential guideline RBA 001 on Schemes conversion on 17th August 2012 required underfunded DB Schemes to undertake annual actuarial valuations for all members. Prudential guideline RBA 001 makes it mandatory for Schemes to allow for revaluation of past accrued benefits where members cease to accrue any future benefits.

**MINUTES OF THE 23RD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY, 9TH MAY 2024 IN
BAOBAB CONFERENCE ROOM, SERENA HOTEL, MOMBASA AT 10:00 A.M.**

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. James Opiyo Wandayi, EGH, MP
3. Hon. Dr. Adan Wehliye Keynan, CBS, MP
4. Hon. Sarah Paulata Korere, MP
5. Hon. Dr. Babu Owino Paul Ongili, MP
6. Hon. Paul Kahindi Katana, MP
7. Hon. Charo Kazungu Tungule, MP
8. Hon. John Machua Waithaka, MP
9. Hon. Marianne Jebet Kitany, MP
10. Hon. Peter Irungu Kihungi, MP
11. Hon. Ronald Kamwiko Karauri, MP

APOLOGIES

1. Hon. Dr. Lilian Achieng Gogo, MP - Vice Chairperson
2. Hon. Mwangi Kiunjuri, EGH, MP
3. Hon. Dr. Beatrice Kahai Adagala, MP
4. Hon. Yusuf Mohamed Farah, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Wanjiru Mwaura - Principal Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant I
3. Mr. Andrew Kipchumba - Clerk Assistant III
4. Ms. Angela Musau - Legal Counsel II
5. Ms. Gladwel Amimo - Research officer III
6. Mr. Brian Njeru - Fiscal Analyst III
7. Ms. Roslyn Ndegi - Serjeant at Arms
8. Ms. Deborah Mupusi - Media Relations Officer
9. Ms. Kerubo Mercyn - Audio Officer
10. Ms. Alice Gicheha - Intern

OFFICE OF THE AUDITOR-GENERAL

1. Mr. Mark Gitenya Omare - Auditor
2. Mr. Simon N. Kamau - Auditor
3. Mr. Henry Manegene - Parliamentary Liaison Officer

THE NATIONAL TREASURY

- Ms. Cheryl Majiwa - Senior Investments Officer

MIN.NO.NA/PIC-CA&E/2024/117:

**MEETING WITH THE MANAGING
DIRECTOR, KENYA PORTS
AUTHORITY (KPA) TO EXAMINE THE
AUDITED ACCOUNTS FOR THE FY
2019/2020 TO FY 2020/2021.**

The management of Kenya Ports Authority, led by the Managing Director Captain William K. Ruto appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2019/20 to FY 2020/21.

1. Property, Plant and Equipment

1.1. Alienated Properties

Information provided for audit review indicated that twenty-nine (29) parcels of land belonging to the Authority had been invaded by private individuals and companies. The Management indicated that third parties had purportedly acquired ownership rights over the properties and undertaken initiated development thereon. However, the Authority had filed suits in various courts of law which are still pending for determination.

Further, out of these twenty-nine (29) properties, only nine (9) properties valued Kshs 755,100,000 were included in the Authority's fixed assets register while seventeen (17) properties valued at Kshs.732,500,000 and three (3) properties of unknown value were not included.

Management Response

The Authority filed several cases as listed in the table below with regard to the observation. Third parties purportedly acquired rights (ownership) over the plots, and some had even undertaken developments. However, in January 2018, the National Land Commission published a notice listing parcels illegally alienated from KPA and gave the registered parcel owners 90 days to vacate the parcel. No parcel of land was vacated despite the said notice. KPA had taken steps to file cases for recovery through cancellation of the titles and eviction as the case may be.

The High Court in ELC Civil Suit No. 245 of 2004; Kenya Ports Authority Vs. G. Wayumba (Geometer Surveys Ltd), Commissioner of Lands, District Land Registrar Mombasa, Wayland Ltd, Essam Properties Ltd and Kilifi Gardens Ltd entered judgement in favor of KPA declaring that excision of portions from KPAs original parcels by creating new ones in the names of private parties and ordered for the excisions to be revoked and rectification of the register.

Committee Observations

- I. The Committee observed there was a high risk of KPA losing huge chunks of their land to squatters and third parties who were currently occupying.

For the parcels of land without titles, actions to secure new titles are underway. KPA proceeded and undertook official searches for the plots. KPA also filed affidavits for issuance of provisional titles. For two plots MSA/BLOCK/XLVIII/131 and MSA/BLOCK/I/315 the green cards were missing in the Kalamazoo binders and in the loss cards. KPA could not lodge searches. However, the Land Registrar has officially been requested to avail the files.

On 26th July 2019 the following three plots were gazetted and KPA had contacted the Land Registrar to issue new titles after the expiry of 60 days as stipulated in the Gazette notice.

It was to be noted that out of the 17 parcels reported to be without titles, 6 have titles. The remaining 7 parcels are those that were grabbed by third parties. The same were referred to the Ethics and Anti-corruption Commission for recovery. For parcel No. MSA/BLOCK 1/358, KPA was gathering ownership records that will enable writing to the Lands Registrar to issue title to the Authority.

Committee Observations

The query to was related to alienated properties and therefore the recommendations apply.

3.Land and Buildings – Impairment

Available documents and information indicated that out of the twenty-nine (29) properties impaired, nineteen (19) pieces of land had been encroached by informal settlers and impairment of Kshs 187,069,550 provided as a percentage of Kshs 1,167,442,445, which was revalued to Kshs 5,197,500,000.

Management Response

The revaluation exercise was undertaken by M/s Sec & M Ltd in FY2018-2019. Land and buildings revaluation amounts were carried at cost less impairment losses. Therefore, we could not have gone ahead to impair whereas the same had already been factored in their values. The Kshs 187,069,550 has since been reversed vide document nos. 9086888 and 9086889

Committee Observations

The query to was related to alienated properties and therefore the recommendations apply.

4.Inclusion of Asset Donated to Bandari Maritime College

Included in the financial statements was Kshs 1,747,879,865 in respect of assets held and used by Bandari Maritime Academy. The Authority indicated that these assets were disclosed in their books since ownership had not been transferred to the academy. Disclosing these assets in the Authority's books was contrary to substance over form concept of accounting since the Academy has possession and rights and obligations to the assets that had been ceded to the Academy. The assets were not available for use by the Authority, hence the presentation and disclosure was contrary to International Accounting Standards.

Management Response

Committee Observations

The Committee noted that the management paid the dividends as per dividend policy, and the OAG concurred with the explanation from the management.

Committee Recommendations

The Committee was satisfied with response by the management and cleared the audit query.

6. Irregular Payment of Acting Allowances

The statement of profit or loss and other comprehensive income reflected staff allowances of Kshs 2,228,097,000. A total of Kshs 1,314,145 was paid to staff as monthly acting allowances beyond the six months in the year under review. A review of human resource records indicated that eight (8) employees had been serving in acting positions for more than six (6) months, contrary to Human Resources Manual, 2017, which states that 'acting appointments shall be limited to six months at any given time.

Management Response

The eight employees had continued to act while awaiting the substantive filling of the positions through a competitive interview process which was at the final stages at Board level. The observation that the acting appointments had gone on for more than six (6) months was attributed to diverse factors which included , the length the recruitment process took.

The Authority contracted Deloitte to facilitate the recruitment and selection process, and as the plans for advertising and recruitment were going on there was a communication from SCAC to freeze filling of vacant positions until the Authority's Human Resource policy instruments were aligned with the guidelines issued by the Public Service Commission.

Committee Observations

- I. The Committee tasked the management to explain why they did not seek approval from the Board to extend the period for the acting officers beyond the stipulated six months.
- II. The management informed the Committee that the current Human Resource Policy had a clause that allowed for extension of acting period beyond six months. Further the management stated that all the officers that were acting in the position had been absorbed.

Committee Recommendations

The Committee redovled to make recommendations during its report writing.

MIN.NO.NA/PIC-CA&E/2024/118: ANY OTHER BUSINESS (AOB)

The delegation that represented the Committee in the "*Ethiopia Trade and Investment Mission*" commended Kenya Ports Authority for its efficiency that had enhanced trade in the region. They further urged KPA to operationalize the Lamu Port operations as its potential on increasing trading between Kenya and Ethiopia was high.

MINUTES OF THE 31ST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 17TH SEPTEMBER,
2024 IN COMMITTEE ROOM 24, BUNGE TOWER AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Dr. Adan Keynan, CBS, MPS
3. Hon. Mwangi Kiunjuri, EGH, MP
4. Hon. Dr. Beatrice Kahai Adagala, MP
5. Hon. Paul Kahindi Katana, MP
6. Hon. Charo Kazungu Tungule, MP
7. Hon. John Machua Waithaka, MP
8. Hon. Marianne Jebet Kitany, MP
9. Hon. Peter Irungu Kihungi, MP
10. Hon. Yusuf Mohamed Bulle Farah, MP

APOLOGIES

1. Hon. Dr. Lilian Gogo, MP - Vice Chairperson
2. Hon. Sarah Paulata Korere, MP
3. Hon. Dr. Babu Owino, MP
4. Hon. Ronald Kamwiko Karauri, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Wanjiru Mwaura - Principal Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant I
3. Mr. Andrew Kipchumba - Clerk Assistant III
4. Ms. Angela Musau - Legal Counsel II
5. Ms. Gladwel Amimo - Research Officer III
6. Ms. Judith Kiprop - Fiscal Analyst
7. Mr. Amos Tindi - Hansard Reporter II
8. Ms. Deborah Mupusi - Media Relations Officer
9. Ms. Roselyn Ndegi - Serjeant at Arms
10. Ms. Mercyln Kerubo - Audio Officer

OFFICE OF THE AUDITOR GENERAL

1. Mr. Thomas Kilel - Officer
2. Ms. Grace Atila - Officer
3. Mr. Kimani T. Francis - Officer
4. Mr. Henry Manegene - Liaison Officer

- to certain limits set by the Board from time to time, thus allowing medical benefits for staff and their dependents without any limit.
- ii. Medical records availed for audit review indicated that the Authority had 6,588 principal members, 4,632 spouses and 13,379 issues or a total of 24,594 members as at 30 June, 2020. However, the Management through the same Circular suspended the provision of Paragraph E.1(a) and (f) of the Kenya Ports Authority Human Resource Manual 2017 This resulted to employees registering up to eleven (11) children with an overall figure of 1,067 dependants in excess of the 23,822 expected.
 - iii. Included in the hospital/referrals bills of Kshs.104,384,460 are private inpatient fees for employees in management positions and their dependants. However, details of employees who are eligible for private hospital services were not availed for audit verification.

Management Response

Kenya Ports Authority offered medical services through its Medical Services Department. This was fully funded by the Authority.

i. Irregular Registration of Dependents

Paragraph E.1(a) and (f) of the Kenya Ports Authority Human Resource Manual 2017 for medical treatment for self, spouse below the age of sixty (60) years, and a maximum of four (4) children up to the age of 22 years only. This change was an emotive issue leading to the suspension of the clauses in the Human Resource Manual 2017 and deferment in the CBA 2018 – 2019 and 2020 -2023. The matters were still under negotiation. Hence the registration was not irregular.

ii. Unapproved Private Inpatient Expenses

All KPA employees are admitted to private hospitals when needing in-patient care. The room provision in these hospitals is as per the grade of the employee. Going forward, the Authority implemented the medical cover with limits since January 2023. Limits have been set for the different groups, per family per year.

Committee Observation

- I. The Committee noted the payment of hospital/referral bills was as per the 2018 Collective Bargaining Agreement, which did not have a cap on the amount the entity could spend on medical expenses for each employee, Further, the number of dependants was not specified in the CBA.
- II. The Management of KPA had reviewed their medical policy and set limits to be spent for each employee and the number of dependants clearly stipulated.
- III. The Committee noted the lack of capping on the amount to be spent might have led to abuse, thus the Committee to make recommendation on this query.
- IV. The Committee noted the management had provided documents detailing the employees who were qualified to visit private hospital and the committee was satisfied.

Management Response

The Authority was currently renewing efforts to ensure compliance with Section 7(2) of the National Cohesion and Integration Act, 2008. The current staff numbers and composition in terms of ethnic representation could be historical in nature, that is, the dominant community may over time have had more representation especially before the Act came into existence in 2008.

From the ethnic composition analysis of the Authority's employees tabulated below, the Mijikenda have for the past 3 years reduced from 35.69% (2019) to 34.44% (2022) while employees from the Taita, Teso, Pokomo, Kenyan Somali, Orma and Bajuni tribes have increased.

It suffices to say that the Authority has made efforts to improve the numbers by actively hiring from under-represented communities hence reducing the numbers of the dominant community to ensure that in the long run there is compliance with the constitution.

Committee Observation

The Committee noted the management had made effort to include the minority tribes in the subsequent recruitment process.

Committee Recommendation

The Committee directed the OAG to include a paragraph on the ethnic diversity in public entities in future audit cycles.

4. Non-Compliance with the Public Service Commission Human Resource Policies and Procedures Manual, 2016 - Over Commitment of Salary -

Payroll records availed for audit review indicated that in the month of June, 2020 the Authority paid basic salary to one hundred and sixteen (116) employees who had committed their salaries beyond two-thirds of the basic salary. This was contrary to Section C.1(3) of the Public Service Commission Human Resource Policies and Procedures Manual, Consequently, Management was in breach of the law.

Management Response

The observation had been noted. Overcommitment of salary was caused by various reasons. The above notwithstanding, the Authority issued a circular Ref: HR/1/6/66 dated 21st June 2021 to all staff to caution and underscore the need to comply with the Human Resources Manual 2017 and the Employment Act 2007. In addition, the staff who were earning below a third were addressed to show cause why disciplinary action should not be taken against them. The Authority has been continuously monitoring progress on this matter as part of continuous improvements.

Committee Observation


The Committee noted the management of KPA had breached the Public Service Commission Human Resource Policies and Procedures Manual, 2016 on Over Commitment of Salary, however the management had taken steps to remedy the situation by issuing a circular ref. no. HR/1/6/66 cautioning employees to comply with the 1/3 rule on basic salary.

work station, the name of the person who signed their letters of engagement, the name of the Managing Director then and the president's directive.

- III. The Committee tasked the office of the Inspectorate of State Corporation to analyze the queries relating to human resources department and advice on the possible recommendation and sanctions.
- IV. The Committee resolved to hold the next meeting with the KPA in Mombasa County.

MIN.NO.NA/PIC-CA&E/2024/160: ADJOURNMENT

There being no other business, the meeting was adjourned at 1:25 pm. The next meeting will be held on notice.

Signature 

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 15/10/24

**MINUTES OF THE 35TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAYS 15TH OCTOBER, 2024
IN COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE AT 10:00 A.M.**

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Dr. Adan Keynan, CBS, MPS
3. Hon. Sarah Paulata Korere, MP
4. Hon. Dr. Babu Owino, MP
5. Hon. Dr. Beatrice Kahai Adagala, MP
6. Hon. Paul Kahindi Katana, MP
7. Hon. Charo Kazungu Tungule, MP
8. Hon. John Machua Waithaka, MP
9. Hon. Marianne Jebet Kitany, MP
10. Hon. Peter Irungu Kihungi, MP
11. Hon. Ronald Kamwiko Karauri, MP
12. Hon. Yusuf Mohamed Bulle Farah, MP

APOLOGIES

1. Hon. Dr. Lilian Gogo, MP - Vice Chairperson
2. Hon. Mwangi Kiunjuri, EGH, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Wanjiru Mwaura - Principal Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant I
3. Mr. Andrew Kipchumba - Clerk Assistant III
4. Ms. Angela Musau - Legal Counsel II
5. Ms. Gladwel Amimo - Research Officer III
6. Mr. Amos Tindi - Hansard Reporter II
7. Mr. Wilson Ouko - Serjeant At Arms
8. Ms. Mercyline Kerubo - Audio Officer

OFFICE OF THE AUDITOR GENERAL

1. Mr. James Njeru - Deputy Director Auditor
2. Mr. Abdikadir Noor - Principal Auditor
3. Mr. Leonard Milgo - Director
4. Mr. Henry Manegene - Liaison Officer
5. Mt. Felix Itonge - Liaison Officer

- VI. The minutes of the 29th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. John Machua, MP and Hon. Beatrice Adagala, MP respectively.
- VII. The minutes of the 30th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Charo Tungule, MP and Hon. Babu Owino, MP respectively.
- VIII. The minutes of the 31st sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Paul Katana, MP and Hon. Yusuf Farah, MP respectively.
- IX. The minutes of the 32nd sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Beatrice Adagala, MP and Hon. John Machua, MP respectively.
- X. The minutes of the 33rd sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Peter Kihungi, MP and Hon. Yusuf Farah, MP respectively.
- XI. The minutes of the 34th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Babu Owino, MP and Hon. John Machua, MP respectively.

MIN.NO.NA/PIC-CA&E/2024/182:

**EXAMINATION OF THE AUDITED
ACCOUNTS OF KENYA URBAN ROADS
AUTHORITY (KURA) FOR THE FY
2020/2021 TO FY 2021/2022.**

The management of Kenya Urban Roads Authority, led by the Director General Eng. Silas Kinoti appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2020/21 to FY 2021/22.

1.0. Inadequacies in Implementation of Road Project

1.1. Dagoretti Corner-Karen Roundabout Road Project

Physical verification of the project in February 2022 revealed that barriers that were to be erected at the Jamhuri Park section as per the contract had not been placed and the pedestrian walkways on the opposite side of Ngong Horse Racecourse entrance were not constructed. Further, the works at the carriageway section between southern By-pass and Karen Shopping Centre and the section of Langata road loop were not complete despite opening of the roads for public use and road signs of the carriageway were missing thus posing risks to road users.

In addition, the contract provided for five (5) footbridges but none had been erected and drainage works had not been completed.

Management Response

Major road works and drainage works including road marking and road signs had since been completed. However, the construction of three (3) foot bridges commenced and were currently

Committee Recommendations

The Committee was satisfied with the progress report and considered the matter resolved.

1.3. Mother Kevin – Nakuru Town Road Project

Review of the Project Implementation file revealed that the contractor was issued with notice for liquidated damages due to slow progress in September 2021 when the time elapsed was 92% against the physical progress of 60%. At the time of audit inspection on 28th February 2022, the surface preparation of the road was complete awaiting bituminous works and drains lining. However, there was minimal activity going on at the site and the contractor was behind the schedule by 5 months.

Management Response

The slow progress in the implementation of the project was due to delayed payments compounded by COVID 19 pandemic. The road had since been completed and opened to traffic.

Committee Observations

The Committee noted the project currently was 100% complete, and taking over certificate ref. no. KURA/MN/FM/03 was provided.

Committee Recommendation

The Committee recommend the matter resolved.

1.4. Nakuru Chief's Office – Ndaragua Road Project.

The contract for improvement to bitumen Standard of Nakuru Chief's office – Ndaragua Road Project was initially awarded to a contractor with a commencement date of 26th September 2020. The contract stalled and remaining works was assigned to a new contractor in September, 2021. At a sum of Kshs. 27,710,660. At the time of assignment of works, the value of works carried out was 7,969,397 although the amount had not been certified. Physical verification carried out on 28th February 2022 revealed that the contractor who was assigned the remaining works was not on site.

Management Response

Management had to effect provisions in the Contract to remedy against poor performance of the Contractor awarded the Contract (FSI Capital Ltd). Consequently, the Contract was assigned to M/s Dynacorp Logistics Ltd. The Assignee ran into financial challenges due to delayed payments for the other project (mother kelvin Road) for more than a year mainly because of delay in exchequer releases. In October, 2023, the Assignee requested for termination citing delay in payments for works executed on Mother Kevin Road and changes in prices of construction materials. Following the request, the Authority initiated and completed the termination process. The remaining Works will be procured afresh.

Management Response

The works were not fully completed because of delay in payments. The Contractor subsequently completed the Works. However, the Contractor is yet to be paid Ksh.70,152,391.65 which continues to attract interest. Management is pursuing this to get it addressed at both the Ministry and The National Treasury level to facilitate a conclusion of this Contract.

Committee Observation

The Committee noted the project was completed and taking over certificate ref. no. KURA/MS/FM/035 provided.

Committee Recommendation

The matter is resolved.

1.7. Garissa Township Roads Contract.

The performance based routine maintenance cost was agreed at Kshs. 36,581,760 which was included in the contract sum. The project works included six (6) access roads within Garissa Township of approximately 7.3 km in length. The overall physical progress as at the end of February 2022 was 42% while the time elapsed for initial completion date stood at more than 39 months.

Management Response

There was delay in the process of vesting and actual commencement of the works. The project was completed and taken over in December 2023 on end of defects liability period. However, there is still pending bills of Kshs. 316,947,212.52.

Committee Observations

The Committee noted the project was completed and taking over certificate ref. no. KURA/MS/FM/035 with a completion inspection dated 01/12/2022 was provided.

Committee Recommendations

The matter is resolved.

1.8. Upgrading of Maua Town Roads.

During physical verification on 10th March 2022, it was observed that the first assigned contractor had completed part of upgrading of the 1.5 km road. The second assigned contractor was on the site continuing with the works with only 0.75km of the road not started. The third assigned contractor was not on site.

Management Response

The first assignee completed the assigned 1.5Km within the allocated time and the section was taken over. The second assignee completed the assigned 6.75Km within the allocated time.

Management Response

This was necessitated by late disbursement of funds by the National Treasury. All claims relating to interest on delayed payments go through the approved procedures before they are paid.

Committee Observations

The Committee noted as at the time of examination the agency had accrued a total of kshs. 375M on interest on late payments. The agency was liaising with the National Treasury to disburse the funds and provide for additional funding.

Committee Recommendations

The Committee directed the OAG to keep the query in view in the next audit cycle.

FY 2021/2022

3.0 Road Rehabilitation and Maintenance Costs

3.1. Lack of Payee Details

Review of the supporting ledgers/schedules showed some payments whose payee details were not shown as detailed below;

Item	Amount (Kshs.)
Consultancy	10,867,205
Road Safety and Children Traffic Parks	9,185,806
Traffic Census and Forward Planning	1,032,442
Axle Load Control Costs	2,694,799
Road Reserves Mapping and Control Costs	5,279,908
Design Inhouse	4,925,956
Special Programs and Environmental Awareness	10,655,621
Total	44,641,737

In the circumstances, accuracy of the expenditure totaling to Kshs. 44,641,737 could not be confirmed.

Management Response

The Initial schedules provided were from the ERP system which had a challenge of showing the payee details on the general ledger accounts. Revised schedules with payee details were subsequently shared with the auditors and matter closed.

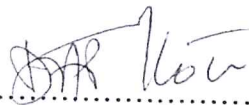
with a view of coming up with a policy direction on matters concerning the roads sector in the country. Further the CS would shed light on;

- i. Allocation of resources for construction & maintenance of roads across the country at constituency level;
 - ii. Plans by the government to ring-fence part of the revenues realized from Roads Maintenance Levy Fund (RMLF) to offset the ballooning pending bills owed to contractors.
- II. The Committee was informed of an upcoming training to be held from 27th October to 3rd November 2024 in Dubai, and Members who are interested were requested to forward their names to the Clerk.

MIN.NO.NA/PIC-CA&E/2024/184: ADJOURNMENT

There being no other business, the meeting was adjourned at 2:12 pm. The next meeting will be held on notice.

Signature



**HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)**

Date.....

28/11/2024

MINUTES OF THE 36TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAYS 16TH OCTOBER, 2024
IN COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE AT 10:00 A.M.

PRESENT

- | | | |
|--|---|--------------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. Dr. Lilian Gogo, MP | - | Vice Chairperson |
| 3. Hon. Dr. Adan Keynan, CBS, MPS | | |
| 4. Hon. Mwangi Kiunjuri, EGH, MP | | |
| 5. Hon. Sarah Paulata Korere, MP | | |
| 6. Hon. Dr. Babu Owino, MP | | |
| 7. Hon. Dr. Beatrice Kahai Adagala, MP | | |
| 8. Hon. Paul Kahindi Katana, MP | | |
| 9. Hon. Charo Kazungu Tungule, MP | | |
| 10. Hon. John Machua Waithaka, MP | | |
| 11. Hon. Marianne Jebet Kitany, MP | | |
| 12. Hon. Peter Irungu Kihungi, MP | | |
| 13. Hon. Yusuf Mohamed Bulle Farah, MP | | |

APOLOGIES

1. Hon. Ronald Kamwiko Karauri, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 3. Mr. Andrew Kipchumba | - | Clerk Assistant III |
| 4. Ms. Angela Musau | - | Legal Counsel II |
| 5. Ms. Gladwel Amimo | - | Research Officer III |
| 6. Mr. Brian Ojamoo | - | Media Relations Officer |
| 7. Mr. Wilson Ouko | - | Serjeant At Arms |
| 8. Ms. Lily Cherotich | - | Protocol Officer |
| 9. Ms. Mercyline Kerubo | - | Audio Officer |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|---------------------------|---|-------------------------|
| 1. Mr. John M. Karianjahi | - | Director |
| 2. Mr. James Njeru | - | Deputy Director Auditor |
| 3. Mr. Abdikadir Noor | - | Principal Auditor |
| 4. Mr. Henry Manegene | - | Liaison Officer |

there was a recovery of the contract advances during the year amounted to 491,177,810 therefore leaving an outstanding balance of Kshs. 4,153,600,797 as reported in the financial statement for the year ended 30 June 2022.

In the subsequent financial year 2022/2023, there was a reduction in the contract advances balance. Most of the contract advances are already recovered as they are part of the pending bills for projects under implementation and whose settlement will enable recovery of the contract advances in the ERP.

Committee Observations

The Committee noted the recoveries were ongoing and the pending ones were related to the pending bills owed to the contractors.

Committee Recommendations

The Committee directed the OAG to keep the query in view in subsequent audit cycles.

2. Failure to Recognize Road Assets

The financial statements reflected Infrastructure Work-in Progress balance of Kshs. 133,072,963,945. The Infrastructure Work-in Progress balance has accumulated over the years and no capitalization has been made to roads assets. In the absence of justification for continued accumulation of Infrastructural Work-in Progress, the accuracy and presentation of the financial statements could not be confirmed.

Management Response

Road assets have been classified as part of property plant and Equipment under non-current assets as Infrastructure Work In progress in accordance with IPSAS 17. However, there is no amortization of this particular asset due to lack of appropriate policy on the same.

The National Treasury has since issued guidelines on accounting treatment for infrastructure assets. Further International Public Sector Accounting Standards Board (IPSASB) has since issued IPSAS 45 giving clarity on accounting for the infrastructure assets. The revised standard takes effect from January 2025. Further we are in communication with the National Treasury for Technical Assistance on the matter.

Committee Observations

The Committee were informed the management of KURA were liaising with the National Treasury to guide in developing policy guidelines for treatment of roads infrastructure in their books of accounts.

Committee Recommendations

The Committee was satisfied with the response provided and closed the query.

3. Pending Bills

Committee Recommendations

The Committee directed the management of KURA to submit:-

- i. A document approving the reallocation of the Kshs. 91M that had been budgeted for the roads in the FY 2021/2022.
- ii. A document from the Kenya Roads Board (KRB) detailing the approval of roads in the FY 2021/2022 and document from the KRB reallocating the funds (kshs. 91M) to other roads project.

5. Implementation of Road Works Projects

5.1. Dualing of Ngong Road (Dagoretti Corner - Karen Roundabout)

The contract was initially awarded at an original contract sum of Kshs. 1,987,981,993 on 12 May, 2017 which was later revised to Kshs. 2,382,337,515 after a variation order of Kshs. 394,355,522. However, the contractor on 17 February, 2021 submitted a proposal for assignment of works to a local company at an assigned amount of Kshs. 751,108,491. The agreement for assignment of part of the contract between the two (2) contractors and the Government of Kenya represented by Kenya Urban Roads Authority (KURA) was signed on 26 March, 2021.

Committee Observations

The query is recurring and the matter was addressed in FY 2020/21.

5.2. Delayed Construction of Ngong Road Footbridges, Nairobi

The construction of Ngong Road Foot Bridges project was awarded at a cost of Kshs. 190,558,366.10. The project is located along Ngong Road and it consists of construction of three footbridges.

The contract was signed on 24 September, 2020, while possession of site was granted on 7 October, 2020. The estimated completion date was given as 2 May, 2022. As at the time of the audit inspection in February, 2023, physical progress report was indicated at 31%.

Management Response

The National Environmental Complaints Committee (NECC) said they had no objections to the construction of the footbridges since they were convinced that adequate public participation was undertaken. It was only that Nairobi Hospital did not attend the public participation meetings despite having been invited. Having resolved the Nairobi Hospital matter, the contractor was granted an extension of time to complete the remaining works. Despite the funding challenges, the contractor continued with the works and the current physical progress is 67%.

Committee Observations

The Committee was informed there was good progress and expected opening date would be in November 2024.

II. The matter remains unresolved and the OAG was directed to inspect the footbridge in the next audit cycle.

5.5. Suspended Project - Improvement to Bitumen Standard of Nakuru Chief's Office - Ndaragua Road

The contract for the road project was initially awarded to a construction company on 22 July, 2020 at a contract sum of Kshs.38,224,685 and a commencement date of 26 September, 2020.

Management has not explained the circumstances under which the contractor abandoned the project and action that have been taken on the contractor for failing to implement the project as per the contract.

Committee Observation

The query is recurring and the matter was addressed in FY 2020/21.

5.6. Construction of Narok Town Roads - Narok

The contract was awarded to a construction company at a contract sum of Kshs.680,415,106 on 29 April, 2020 for a contract period of eighteen (18) months. As at the time of audit inspection on 5 March, 2023, the contractor had total works certified of Kshs.338,191,933 or 50% of the contract value and the total pending bills/unpaid certified work was Kshs.92,982,638.

In the circumstances, it was unlikely that the project would be completed by 20 March, 2023 given that the progress was at 50%.

Management Response

The Auditor's issues were noted and addressed as follows:

- (i) The Box culvert was completed.
- (ii) The contractor was granted possession of site after encroachment issues were cleared. The works have progressed to black top.
- (iii) The road is among the project Roads network, and earthworks are now complete and has commenced on base works

The contractor was granted extension of time. Currently the progress is at 82% and most of the roads have been completed except the bridge which the contractor is about to embark on it by end of October so as to complete the works as per the contract.

Committee Observation

The Committee was informed the delay in completion was occasioned due to KURA not being able to pay the contractor in time, however there has been no increase in costs from the initial contract.

Committee Recommendation

works certified by December, 2022 was Kshs.81,126,253 and that the assessed completed works were estimated at 9.24% against an elapsed time of 60%. During the audit inspection carried out on 2 March, 2023, the contractor was not on site and the works had been suspended.

Management Response

The slow progress reported was occasioned by slow mobilization by the Contractor due to financial challenges. To forestall the delay the project was assigned to another contractor and the assignee mobilised and started works. Currently the physical progress stands at 28%. There is currently Kshs. 44,000,000 for certified Works yet to be paid. The project have stalled due to delayed pymtent.

Committee Observations

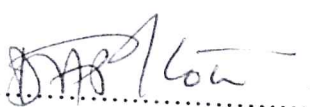
The Committee noted the matter was outstanding and there was likely loss of public funds.

Committee Recommendations

The management was directed to submit; primary contract awarded, proof of payment of advanced payment and security, and guarantee of the kshs. 84M., further, submit contract of the assignee.

MIN.NO.NA/PIC-CA&E/2024/189: ADJOURNMENT

There being no other business, the meeting was adjourned at 1:15 pm. The next meeting will be held on notice.

Signature 

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 28/11/2024

MINUTES OF THE 37TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 22ND OCTOBER, 2024
IN MINI-CHAMBER, COUNTY HALL AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. Lilian Gogo, MP - Vice Chairperson
3. Hon. Dr. Adan Keynan, CBS, MPS
4. Hon. Dr. Beatrice Kahai Adagala, MP
5. Hon. Paul Kahindi Katana, MP
6. Hon. John Machua Waithaka, MP
7. Hon. Marianne Jebet Kitany, MP
8. Hon. Peter Irungu Kihungi, MP
9. Hon. Yusuf Mohamed Bulle Farah, MP

APOLOGIES

1. Hon. Mwangi Kiunjuri, EGH, MP
2. Hon. Sarah Paulata Korere, MP
3. Hon. Dr. Babu Owino, MP
4. Hon. Charo Kazungu Tungule, MP
5. Hon. Ronald Kamwiko Karauri, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Wanjiru Mwaura - Principal Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant I
3. Mr. Andrew Kipchumba - Clerk Assistant III
4. Ms. Angela Musau - Legal Counsel II
5. Ms. Gladwel Amimo - Research Officer III
6. Mr. Chemweno William - Serjeant At Arms
7. Ms. Lily Cherotich - Protocol Officer
8. Ms. Mercyline Kerubo - Audio Officer

OFFICE OF THE AUDITOR GENERAL

1. Mr. John M. Karianjahi - Director
2. Mr. James Njeru - Deputy Director Auditor
3. Mr. Felix Itonge - Liaison Officer
4. Mr. Henry Manegene - Liaison Officer

THE NATIONAL TREASURY

1. Ms. Cheryl Majiwa - Officer

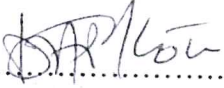
MIN.NO.NA/PIC-CA&E/2024/194:

EXAMINATION OF THE AUDITED
ACCOUNTS OF KENYA NATIONAL
HIGHWAYS AUTHORITY (KeNHA) FOR
THE FY 2020/2021 TO FY 2021/2022.

The agenda was deferred to the next meeting.

MIN.NO.NA/PIC-CA&E/2024/195: ADJOURNMENT

There being no other business, the meeting was adjourned at 1:13 pm. The next meeting will be held on Wednesday, 23rd October 2024 at 10.00 am.

Signature 

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 28/11/2024

**MINUTES OF THE 38TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY 23RD OCTOBER,
2024 IN COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE AT 10:00 A.M.**

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. Dr. Lilian Gogo, MP | - | Vice Chairperson |
| 3. Hon. Mwangi Kiunjuri, EGH, MP | | |
| 4. Hon. Dr. Adan Keynan, CBS, MPS | | |
| 5. Hon. Dr. Babu Owino, MP | | |
| 6. Hon. Dr. Beatrice Kahai Adagala, MP | | |
| 7. Hon. Paul Kahindi Katana, MP | | |
| 8. Hon. John Machua Waithaka, MP | | |
| 9. Hon. Marianne Jebet Kitany, MP | | |
| 10. Hon. Peter Irungu Kihungi, MP | | |
| 11. Hon. Yusuf Mohamed Bulle Farah, MP | | |

APOLOGIES

1. Hon. Sarah Paulata Korere, MP
2. Hon. Charo Kazungu Tungule, MP
3. Hon. Ronald Kamwiko Karauri, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 3. Ms. Angela Musau | - | Legal Counsel II |
| 4. Ms. Gladwel Amimo | - | Research Officer III |
| 5. Mr Amos Tindi | - | Hansard Reporter II |
| 6. Ms. Mercyline Kerubo | - | Audio Officer |
| 7. Mr. Noah Chemweno | - | Serjeant At Arms |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-----------------------|---|-----------------|
| 1. Mr. John Karingith | - | Director |
| 2. Mr. James Njeru | - | Deputy Director |
| 3. Mr. Henry Manegene | - | Liaison Officer |

THE NATIONAL TREASURY

- | | | |
|----------------------|---|---------|
| Ms. Catherine Nzioki | - | Officer |
|----------------------|---|---------|

Government of Kenya dated 7 September, 2007, which was indicative of rightful and beneficial ownership to the properties by the Authority, However, the process of acquisition of title deeds was yet to be completed. In the circumstances, the validity and ownership of land and buildings valued at Kshs.395,956,816 could not be confirmed.

Management Response

The management concurred with the Auditor's observations and submitted that the land belongs to the Government of Kenya and the Authority has been in possession of the land and occupying the offices and houses at the South Rift region since 2009 upon its formation.

The Authority was pursuing vesting order from the National Treasury for the land parcel to back up the occupancy with legal documents for the land parcel ownership. It was observed that lack of ownership of title deeds by state corporations was a cross-cutting issue.

The National Treasury issued National Treasury Circular No. 5 'Acquisition of Title Deeds for Public Institution Land dated 2nd August 2024 to giving guidance on acquisition of title documents.

The Authority nominated an officer to be part of a technical team comprising of technical officers from all Directorates within the State Department to fast track and ease the processes of acquiring ownership documents for Public Institutions Land. The Authority is therefore actively pursuing the acquisition of the ownership documents for all the land assets under its jurisdiction.

Committee Observations

The Committee noted that the Authority didn't endeavor much to obtain title documents for the piece of land in question as they were unable to submit correspondences to the National Land Commission and Ministry of Lands, Housing & Urban Development requesting for titling of the piece of land in question.

Committee recommendation

The Committee recommended that the Authority writes a letter consolidating all pieces of land that it wishes to be titled to the National Land Commission and submit a copy of the same to the Committee.

Committee Observations/Recommendations

The Committee was satisfied with the submission of the Authority and recommended that the matter be resolved.

3. Refundable Deposits from Customers

The statement of financial position reflects refundable deposits from customers amounting to Kshs.167,992,948 as disclosed under Note 30 to the financial statements. The amount includes customer balances totaling Kshs 30,444,617 which date back to between 2011/2012 and 2015/2016 and have remained unclaimed as at 30th June 2021, which raises doubts on the existence and authenticity of the balances. In the circumstances, the accuracy of refundable deposits from customers balance of Kshs.167,992,948 as at 30 June, 2021 could not be confirmed.

Management Response

The management concurred with the Auditor's observations that there were overdue refundable deposits.

Please note that applicants for Roadside Development who are required to make refundable deposits are also required to apply for their refunds and provide full bank details to facilitate refunds once they have completed the works as per the approval conditions.

The refundable deposits that were made in the year 2011 that are yet to be refunded relate to cases where the specific customers have not applied for the refund and provided full bank details. Since these are one off clients, their physical locations are unknown. The Authority has enhanced its search for these clients with the intention of obtaining their full bank particulars to facilitate refund. In the event that these efforts fail to bear expected results, the Authority will remit the unclaimed refundable deposits to the Unclaimed Financial Assets and close the matter.

The above exercise registered tremendous success and as at 30th June 2024, the Authority held Kshs 39,747,942 only as customer refundable deposits all of which are current and relate to ongoing activities. However, we were unsuccessful in tracing owners of deposits amounting to Ksh 27,373,209.35, which has since been transferred to The Unclaimed Financial Assets Authority (UFAA) as required by law.

budget of Kshs.32,214,383,504 resulting in an under-expenditure of Kshs.8,016,916,528. The under expenditure mainly occurred in components relating to use of goods and services at Kshs 201,309,652 (66%), and road maintenance and Axle load expenses at Kshs.8,133,648,667 (72%) which is an indication of some planned programs were not realized in the year under review.

Management Response

The management concurred with the audit observation and submitted that the under-funding and under expenditure was a result of the Covid 19 pandemic and as such a number of activities were scaled down, in light of the containment measures issued by the Government.

Committee Observations/Recommendations

The Committee observed that the management response was unsatisfactory and directed that the Management submits a comprehensive & satisfactory response within fourteen (14) days.

6. Trade and other payables from Exchange Transactions

The statements financial of financial position reflected trade and other payables from exchange transactions balance of Kshs.61,903,313,219 as at 30 June 2021. The receivables included development payable is Kshs.53,648,579,024 out of which a further Kshs.30,133,789,406 was in respect of land compensation to various individuals across the country. According to information gathered from the Authority, some of the outstanding compensation related to roads which are already complete and those that were ongoing.

Continuous delay in settling these balances exposes the Authority to litigations and penalties at the expense of the taxpayers which negate the effective use of public funds.

Management Response

The management concurred with the audit observations and submitted that the regrettable delays arose due to:

- a) Inadequate Exchequer budgetary provisions in the current as well as well as prior financial years
- b) Delayed receipt of Budgeted Exchequer funds by the Authority in the current as well as prior financial years

- a) Inadequate Exchequer budgetary provisions in the current as well as well as prior financial years
- b) Delayed receipt of Budgeted Exchequer funds by the Authority in the current as well as prior financial years
- c) In some cases, expiry and exhaustion of Development Partner financing prior to completion of the projects.

The Authority submitted that it will endeavour to allocate sufficient budgets in subsequent financial years subject to enhanced budget ceilings in order to ensure that all due bills are settled on time.

Committee Observation

The Committee observed that the audit query arose majorly due to accrued pending bills as a result of inadequate and timely ex-chequer release. This was outside the purview of the Authority.

Committee Recommendation

The Committee resolved to hold a round-table meeting encompassing the stakeholders within the roads sector and the National Treasury 7 Economic Planning to discuss among other things, pending bills.

8. Progress of Projects

Physical verification and review of project documents revealed that projects with a total cost of Kshs 7,394,903,485 had either stalled or had taken a long time to complete. Failure to execute works on time impacts negatively on realization of value for money by the citizens. This also contravenes Section 68(1) of the Public Finance Management (National Government) Regulations, 2015, which require an accounting officer for a National government entity, to be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful, authorized; effective, efficient, economical and transparent.

Management Response

The management concurred with the audit observation that projects with a total cost of Kshs 7,394,903,485 had either stalled or had taken a long time to complete. This was largely occasioned by financial constraints encountered by contractors, inclement weather and the Covid

Currently, out of the total awards of Kshs 2,013,493,117 the Authority has to date paid out an amount of Kshs 642,408,700 thus a balance of Kshs 1,371,084,447 due to Project Affected Persons. The management continues to engage the Parent Ministry for additional resources to enable it to honor these obligations.

- i. It is true that as at the time of audit, the service lane had not been provided. However, currently, Karura shopping centre features a functional grade separated interchange with separate entrance and exit ramps on the LHS (going towards Ndenderu) and a combined entry and exit ramp on the RHS, providing access to and from the retail shopping centre.

Ndenderu junction was converted from a full clover leaf interchange to a roundabout due to the need for a massive land and property acquisition that was required.

Based on Government Financial outlay, it was agreed during a meeting on project cost appraisal that the junction be improved to a roundabout even as consideration for improvement to a full interchange is left for the future.

Arising out of this consideration, cost appraisal of the project was undertaken which resulted in the reduction of Land Acquisition from **96.648 acres** to **18.7499 acres**, translating into savings on land acquisition of approximately **KShs 7.7 billion**.

- ii. Kihara Interchange, Service Road (No. 12) has been constructed on the LHS from Kirangari to Karura which enables local traffic flow.
- iii. A two-way Service Road (SR12) has been constructed running from Karura on the LHS to the flyover bridge at Kirangari through Route E enabling access to Kibiku.
- iv. It is true that no footbridge has been provided at Kibiku/Gathiga Junction. The challenge of land acquisition to anchor the landings. The Authority has however provided a paved footpath from Aberdare (WK6+350) to the Kirangari bridge (WK 5+791), on the RHS close to the road to facilitate movement of pedestrians.
- v. At Rukubi, an underpass on the LHS connects, SR5, to the now-completed Gatumumu Road, which leads to the Lower Kabete junction allowing vehicles to travel in either direction on the main Western Bypass Road.

A lined outfall drain has been constructed from the Rukubi underpass to an existing stream, no storm water is channeled to the private school.

Committee Observations/Recommendations

The Committee noted the submissions of the Authority and directed the Office of the Auditor General to undertake a visit to the projects and report back to the Committee within fourteen (14) days.

The National Land Commission (NLC) undertook the valuation as legally mandated in law. After which, NLC forwarded to the Authority a compensation schedule for the property totaling Ksh 1,920,752,959.

The Authority received a copy of the valuation report from NLC and submitted to the Committee.

Committee Observation

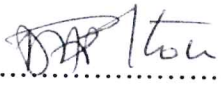
The Committee observed that the management submitted a copy of a valuation report of the parcel of land in question. However, the report was not interrogated by the Office of the Auditor General.

Committee Recommendation

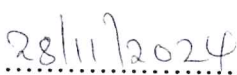
The Committee directed the Office of the Auditor General to interrogate the valuation report of the piece of land in question and report back to the Committee within fourteen (14) days.

MIN.NO.NA/PIC-CA&E/2024/200: ADJOURNMENT

The meeting was adjourned at 1:00 pm. The next meeting will be held in the afternoon at 2.30 p.m. at the same venue.

Signature 

**HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)**

Date..... 

**MINUTES OF THE 39TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY 23RD OCTOBER,
2024 IN COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE AT 2:00 P.M.**

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. David Pkosing, CBS, MP | - | Chairperson |
| 2. Hon. Dr. Lilian Gogo, MP | - | Vice Chairperson |
| 3. Hon. Mwangi Kiunjuri, EGH, MP | | |
| 4. Hon. Dr. Adan Keynan, CBS, MPS | | |
| 5. Hon. Dr. Babu Owino, MP | | |
| 6. Hon. Dr. Beatrice Kahai Adagala, MP | | |
| 7. Hon. Paul Kahindi Katana, MP | | |
| 8. Hon. John Machua Waithaka, MP | | |
| 9. Hon. Marianne Jebet Kitany, MP | | |
| 10. Hon. Peter Irungu Kihungi, MP | | |
| 11. Hon. Yusuf Mohamed Bulle Farah, MP | | |

APOLOGIES

1. Hon. Sarah Paulata Korere, MP
2. Hon. Charo Kazungu Tungule, MP
3. Hon. Ronald Kamwiko Karauri, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I |
| 2. Mr. Ahmad Guliye | - | Clerk Assistant I |
| 3. Ms. Angela Musau | - | Legal Counsel II |
| 4. Ms. Gladwel Amimo | - | Research Officer III |
| 5. Mr Amos Tindi | - | Hansard Reporter II |
| 6. Ms. Mercyline Kerubo | - | Audio Officer |
| 7. Mr. Noah Chemweno | - | Serjeant At Arms |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-----------------------|---|-----------------|
| 1. Mr. John Karingith | - | Director |
| 2. Mr. James Njeru | - | Deputy Director |
| 3. Mr. Henry Manegene | - | Liaison Officer |

THE NATIONAL TREASURY

- | | | |
|----------------------|---|---------|
| Ms. Catherine Nzioki | - | Officer |
|----------------------|---|---------|

Management Response

The management submitted that there was an expense of Kshs 133,400 incurred on air ticket cancellation following the Kenyan airspace closure by the national government as part of the Covid-19 pandemic containment measures. The management had written to the airline agent demanding refund of the Kshs. 133,400 paid as ticket cancellation fee since the matter was outside the control of the KeNHA officers who were due to travel for Board induction in Nyanza and Western Regions between 29th March 2021 and 1st April 2021.

The amount has since been refunded in full.

The management noted the audit observation that there was a misclassification of the budget line item referred to as Ministerial and Other Official Functions under the cluster of Board Expenses amounting to Kshs 8,321,118

The management clarified that this budget line item was created to facilitate the Authority's Board of Directors to participate in national government ministry's official functions that have an impact on the Authority's mandate. The budget line also caters for travel facilitation of other senior government officers (who may be accompanied by the Authority's Board) attending official functions which have a direct impact on the Authority's mandate.

The expenditure of Kshs. 8,321,118 relates to travel expenses for the then Principal Secretary, State Department for Infrastructure and his staff while on official road inspections. The Principal Secretary by law is a member of the Authority's Board.

Effective financial year 2023/24, the Authority is guided by the National Treasury Circular No. 2/2024 dated 27th March 2024 on 'Policy measures to enhance state corporations' revenue generation and expenditure rationalization' that prohibits state corporations from funding operations or purchase of capital items for Ministries, Departments, State Corporations and Agencies and shall endeavor to abide by it.

The management noted the observation that the Authority spent Kshs.11,381,934 on Board of Directors oversees training without justification.

The management clarified that the Authority Vide our letter Ref: KeNHA/07.B/CONF/42 Vo. 2/(74) dated 25th October 2021, submitted to the Principal Secretary State Department for Infrastructure a Training plan for the Directors complete with the justifications for the intended

properties which were under the then Ministry in charge of Roads were transferred and vested to them. These properties included various National Roads and their Road Reserves.

However, the Vesting Orders gazetted by the then Minister for Finance at that time (Kenya Roads Act, 2007- Legal Notices No. 193, 194 and 195 of 2011) did not include the various other land assets that were also taken up by the Roads Authorities. The various Road Depot Camps and former Provincial/District Works Offices located all over the Country are a case in point. The two land parcels in Nakuru belong to this category.

This issue was also discussed in a meeting held on 15th September, 2021 between the office of the Auditor General, National Land Commission (NLC) and office of the Principal Secretary (State Department of Roads). The said meeting resolved the Principal Secretary, Ministry of Lands to convene a meeting of all stakeholders/state corporations to discuss and start the process of registering the assets. Unfortunately, the meeting is yet to be convened. We are however following up on the same through our line ministry.

Arising from the above challenges affecting most Public Institutions in obtaining Public Land ownership documents, the National Treasury issued National Treasury Circular No. 5 'Acquisition of Title Deeds for Public Institution Land dated 2nd August 2024 giving guidance on the same.

Consequently, the State Department for Lands and Physical Planning formed a dedicated team comprising of technical officers from all Directorates within the State Department to fast track and ease the processes of acquiring ownership documents for Public Institutions Land. This was communicated through the letter Ref: MOR&T/R/A24.28 VOL.1 dated 2nd September, 2024.

The Authority subsequently nominated an officer to be part of the technical team and was actively pursuing the acquisition of the ownership documents for all the land assets under its jurisdiction.

Committee Observations/Recommendations

The Committee observed that this query was examined in the FY 2020/2021 and its observations and recommendations are carried.

2.2 Unsupported Road Assets Additions

2.2.2 Unsupported Compensation by National Land Commission

The additions of Kshs 86,942,945,986 also include Kshs.359,210,703 paid to National Land Commission out of which, Kshs.274,913,406 was in respect to Kirimukuyu/ Mutathi Ini. However, documents in respect of beneficiaries and evidence of remittances in support of the amount were not provided for audit. In the circumstances, the propriety of the capital expenditure of Kshs.274,913,406 could not be confirmed.

Management Response

The management concurred with the audit observation that they did not share copies of supporting documents in respect of beneficiaries and evidence of remittances by NLC for the Kshs. 274,913,406 paid in respect to Kirimukuyu/ Mutathi Ini.

Based on this, the management wrote to the National Land Commission requesting them for copies of supporting documents giving the beneficiaries' names and proof of remittance of the Kshs. 274,913,406 to the respective beneficiaries. The management has since obtained the valuation reports from the National Lands Commission and shared the same with the Office of the Auditor General.

Committee Observations

The Committee was satisfied with the submissions of the management as the Auditor confirmed receipt and verification of the documents.

Committee recommendation

The Committee recommends that the matter is resolved.

2.2.3 Unsupported Payments on Improvements

The additions of Kshs 86,942,945,986 further includes Kshs. 16,356,921,198 paid to persons whose parcels of land were affected by road improvements.

However, relevant documents such as evidence of remittances, identification details of persons paid, valuation reports and authenticated reports from local government administration officers, in support of the amounts were not provided for audit review.

In the circumstances, the propriety of the capital expenditure of Kshs.16,356,921,198 could not be confirmed

Committee Observations

The Committee was satisfied with the submissions of the management as the Auditor confirmed receipt and verification of the documents.

Committee recommendation

The Committee recommends that the matter is resolved.

2.2.5 Unsupported Huge Payments to Individuals

The additions of Kshs 86,942,945,986 finally include direct payments totaling to Kshs.5,700,470,077 were made to One Hundred and Twenty Five (125) individuals. Although Management has indicated that the payments were made by the National Land Commission, no supporting documents such as valuation reports, proof of ownership, acreage and approvals for the payments were provided for audit. In the circumstances, the propriety of the payments of Ksh. 5,700,470,077 could not be confirmed.

Management Response

The management concurs with the observation that valuation reports were not availed for the sample of Kshs 4,906,944,175 paid to 125 PAPs since we did not receive them from the NLC.

Based on your observation, the management wrote to the National Land Commission requesting them for copies of valuation reports, proof of ownerships, acreages and proof of remittances to individual PAPs. The management has since obtained the valuation reports from the National Lands Commission and shared the same with the Office of the Auditor General.

Committee Observations

The Committee was satisfied with the submissions of the management as the Auditor confirmed receipt and verification of the documents.

Committee recommendation

The Committee recommends that the matter is resolved.

3.0 Dormant Bank Accounts

The statements of financial position reflected cash and cash equivalents balance of Kshs.13,993,063,067 which, according to bank statements, cashbooks and bank reconciliation

of the amounts for the closed accounts. However, item 6, National Bank-Sirari Corridor a/c, the funds relate to an ongoing development Partner Project. The funds will be expended upon completion of the relevant project component whose implementation is currently ongoing.

Committee Observations/Recommendations

The Committee observed that this query was examined in the FY 2020/2021 and its observations and recommendations are carried.

4.0 Unreconciled and Long Outstanding Current Receivables from Exchange Transactions

The current receivables from exchange transactions balance of Kshs.12,562,556,350 includes receivable from Roads Maintenance Fund of Kshs. 11,865,854,651. However, review of the Kenya Roads Board Fund financial statements indicate that the Fund owed the Authority an amount of Kshs. 10,257,336,897 as at 30 June 2022, resulting in unreconciled variance of Kshs.1,608,517,754.

Further, the balance of Kshs.12,562,556,350 include receivable from Kenya Urban Roads Authority and Kenya Rural Roads Authority of Kshs.6,755,843 and Kshs.8,195,298 respectively. Which were not reflected as payables in the financial statements of the two roads agencies.

In the circumstances, the accuracy and recoverability of current receivables from exchange transactions balance of Kshs.12,562,556,350 could not be confirmed.

Management Response

The management notes the audit observation that the Authority's receivables from KRB was Kshs. 11,865,854,651 instead of Kshs. 10,257,336,897 as reported in KRB books resulting to a variance of Kshs. 1,608,517,754.

The management submitted that the correct receivables from KRB as at 30th June 2022 was Kshs. 11,865,854,651 as reported in the Authority's main Financial Statements for year ended 30th June 2022.

The above amount was fully received from KRB after the year end in three tranches as tabulated below.

between 2010/2011 and 2016/2017 financial years, which raises doubts on the existence and authenticity of the balances. It is not clear why the deposits had not been surrendered to the Unclaimed Financial Assets Authority. In the circumstances, the existence of refundable deposits from customers balance of Kshs.195,479,839 could not be confirmed.

Management Response

The management concurs with the audit observation that there were overdue refundable deposits.

Key is to note that applicants for Roadside Development who are required to make refundable deposits are also required to apply for their refunds and provide full bank details to facilitate refunds once they have completed the works as per the approval conditions.

The refundable deposits that were made in the year 2011 that are yet to be refunded relate to cases where the specific customers have not applied for the refund and provided full bank details. Since these are one off clients, their physical locations are unknown. The Authority has enhanced its search for these clients with the intention of obtaining their full bank particulars to facilitate refund. In the event that these efforts fail to bear expected results, the Authority will remit the unclaimed refundable deposits to the Unclaimed Financial Assets and close the matter.

The above exercise registered tremendous success and as at 30th June 2024, the Authority held Kshs 39,747,942 only as customer refundable deposits all of which are current and relate to ongoing activities (see attached movement schedule). However, we were unsuccessful in tracing owners of deposits amounting to Ksh 27,373,209.35, which has since been transferred to The Unclaimed Financial Assets Authority (UFAA) as required by law.

Committee Observations/Recommendations

The Committee observed that this query was examined in the FY 2020/2021 and its observations and recommendations are carried.

Contingent Liabilities

I draw attention to page 46 of the financial statements where the Management has disclosed court cases against the Authority, unclaimed interest on works and land acquisitions and unresolved contractual claims totalling to Kshs.65,707,923,295 (2020-2021:

1.2 Delayed Road Maintenance Projects

The Committee observed that queries raised under this audit query on Delayed Road Maintenance Projects under Projects Implementation related to projects that its' maintenance were delayed due to inadequate exchequer release from the National Treasury.

Committee Recommendations

- I. The Committee recommends that these audit queries be examined in a roads' sector stakeholder round-table meeting that will encompass the Cabinet Secretary, the National Treasury & Economic Planning, the Cabinet Secretary, Roads & Transport and the Director Generals of the Road Agencies to be convened in due course.
- II. The Auditor General to Keep-In-View of these queries in subsequent audit cycles.

2.0 Stalled Projects

Physical inspection and review of project files revealed that twelve (12) projects with a total cost of Kshs.7,394,903,485 had stalled. Further, it was noted that most road projects funded by the exchequer had been suspended awaiting funding. This contravenes Regulation 68(1) of the Public Finance Management (National Government) Regulations, 2015, which require an Accounting Officer for a National government entity, to be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful, authorized, effective, efficient, economical and transparent. Failure to execute works on time impacts negatively on realization of value for money and service delivery to the public.

Management Response

The management concurs with the Audit observation that as at the time of audit, 12 projects had stalled. Currently some projects directly funded by the Government are either on slow progress or suspension due to delayed payments.

The management was optimistic that the ongoing verification of pending bills by the Committee appointed by the CS National Treasury would propose a mechanism to ensure settlement of the current stock of pending bills and ways of avoiding their accumulation in the future.

Further to the above, the Authority has reduced its uptake of new projects to facilitate delivery of ongoing works through concentration of its budgetary allocations.

In order to ensure that the payables are settled timely and to curtail further accrual of interests on delayed payments, the Authority will continue lobbying for additional budgets through the Parent Ministry in subsequent financial years in order to ensure that all the bills are settled. In addition, only critical projects will be initiated for implementation to reduce the budget burden in the future.

The Authority wishes to note that interest on delayed payment is a contractual obligation that arises whenever certified works are not settled within the period stipulated in the contracts which arose due to:

- a) Inadequate Exchequer budgetary provisions in the current as well as prior financial years
- b) Delayed receipt of Budgeted Exchequer funds by the Authority in the current as well as prior financial years
- c) In some cases, expiry and exhaustion of Development Partner financing prior to completion of the projects.

The Authority will endeavour to allocate sufficient budgets in subsequent financial years subject to enhanced budget ceilings in order to ensure that all due bills are settled on time.

Committee Observations

The Committee observed that penalties and interest on trade and other payables arose due inadequate exchequer budgetary provisions from the National Treasury.

Committee Recommendations

The Committee recommended that the matter be discussed during the roads' sector stakeholder meeting to be convened in due course.

MIN.NO.NA/PIC-CA&E/2024/205: ADJOURNMENT

The meeting was adjourned at 5.45 pm. The next meeting will be held on notice.

Signature 

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 28/11/2024

**MINUTES OF THE 40TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 29TH OCTOBER, 2024
AT 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.**

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Dr. Lilian Achieng Gogo, MP - Vice Chairperson
3. Hon. Dr. Adan Wehliye Keynan, CBS, MP
4. Hon. Mwangi Kiunjuri, EGH, MP
5. Hon. Sarah Paulata Korere, MP
6. Hon. Beatrice Kahai Adagala, MP
7. Hon. John Machua Waithaka, MP
8. Hon. Yussuf Mohamed Farah, MP

APOLOGIES

1. Hon. Paul Kahinidi Katana, M.P
2. Hon. Marianne Jebet Kitany, MP
3. Hon. Peter Irungu Kihungi, MP
4. Hon. Charo Kazungu Tungule, MP
5. Hon. Babu Owino, MP
6. Hon. Ronald Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant I
2. Ms. Angela Musau - Legal Counsel
3. Ms. Gladwel Amimo - Research Officer III
4. Ms. Merciline Kerubo - Hansard Officer
5. Mr. Amos Tindi - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. John Kangethe - Director Audit
2. Mr. Henry Manegene - Liaison Officer

NATIONAL TREASURY

Ms. Catherine Nzioki - Senior Investments Officer

INSPECTORATE OF STATE CORPORATIONS

In the circumstances, the recoverability of the receivables is doubtful and accuracy of the long outstanding balances of ksh 43,349,871 could not be confirmed.

Management Response

The Accounting Officer noted the Auditors' observations by stating that the figure Ksh. 43,349,871 related to Staff imprest and Advances for KeRRA staff in the 47 Regional Offices. All the imprests due had been fully accounted for and advances recovered.

The current outstanding amount was ksh 11,527,045 as at 30th June 2024 and relate to Current periods as attached.

Committee observations

The Committee was informed that Staff advances were part of the policy guidelines of the Authority, but limited to only special circumstances.

Committee recommendation

The Committee directed the Office of the Auditor General to keep the matter in view because the Accounting Officer had recovered outstanding staff imprests, with a total of Ksh.11million as advances still pending and unrecovered.

2. Unresolved Prior Year Matters

In the audit report of the previous year, a number of issues were raised under the Report on the Financial Statements and Report on the Lawfulness and Effectiveness in Use of Public Resources. However, the issues remained outstanding as at 30 June 2021.

Management Response.

The Accounting Officer noted the Auditors' observations and informed the Committee that all Prior Year matters were presented to the Public Investments Committee(PIC) and resolved in 2022.

Committee Observation

The Committee noted the submission by the Accounting Officer was satisfactory.

Committee Recommendation

The Committee recommends that the matter is resolved.

3. Irregular Payment of Rent and Rates

The Statement of financial performance reflects other operating costs of Ksh 477,684,000 as disclosed in Noted 16 to the financial statements. The amount includes rent and rates amount of ksh 18,0630,000 out of which Ksh 17,758,000 was incurred on rent charges for office space measuring 18,745 square feet at Blue Shield Towers for the period between 01October 2019 to

Management Response

The Accounting Officer submitted that the interest on delayed payments had been caused by:

- i Inadequate Budgetary allocation for projects
- ii Delayed exchequer releases

The Committee was also informed that the budgetary allocation to projects was often less than the contractor capacity to generate payment certificates, thus leading to an accumulation of pending bills and hence the interest charges.

The Authority continues to engage the National Treasury and Ministry of Roads and Transport for increased budgetary allocations and timely release of Exchequer.

Committee observations

- I. The Committee noted that the interests on delayed payments were accruing as a result of pending bills.
- II. The Committee was informed that KeRRA had accumulated a total sum of Kshs.66,025,495,545.25 as pending bills.

Committee recommendation

The Committee resolved to invite the Cabinet Secretaries for Roads and transport, and National Treasury and Economic Planning, to provide information on the way forward regarding the pending bills, a matter which has been identified as the main hinderance to development in the Roads Sector in the country.

5.. Acting Appointments

The statement of financial performance reflects directors' costs and employment costs of Kshs 13,394,000 and ksh 2,586,488,000 respectively as disclosed in Note 13 and Note 14 to the financial statements. The amounts included acting allowance of kshs 378,000 and ksh 835,920 paid to two (2) members of staff. Review of personnel records revealed that the two (2) employees have been on acting capacity for a period of over six (6) months contrary to the requirements of sec C.14 of the Public Services Commission Human Resources Policies and Procedures Manual.

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

Management Response

The Accounting Officer informed the Committee that the management acted and the positions were substantively filled.

Committee observations;

- I. The Committee noted the futuristic need to avoid such cases of acting appointments beyond the required timelines by introducing quarterly reviews by the Authority's Board and reporting on the same.

Management Response

The Accounting Officer noted the observations of the Auditor and submitted that the Authority maintains a fixed asset register. The Management has however incorporated all the details in the fixed asset register as required by the policy guidelines issued by The National Treasury. A copy of the current fixed Asset Register was attached.

Committee observations

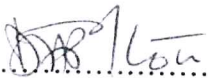
The Committee noted that the submission by the Accounting Officer was unsatisfactory with an incomplete register.

Committee resolution;


- I. The Committee directed the Authority to prepare the relevant fixed asst register as per the reporting standards required and under the guidance of the Auditor General. The Accounting Officer to submit on the same to the Committee.
- II. The Auditor General to report conformity of the same to the Committee.

MIN.NO.NA/PIC-CA&E/2024/210: ADJOURNMENT

The meeting was adjourned at 1.10 pm. The next meeting will be held at 2.00 p.m. on the same day and venue.

Signature 

**HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)**

Date..... 

**MINUTES OF THE 41ST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 29TH OCTOBER, 2024
AT 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 2:00 P.M.**

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Dr. Lilian Achieng Gogo, MP - Vice Chairperson
3. Hon. Dr. Adan Wehliye Keynan, CBS, MP
4. Hon. Mwangi Kiunjuri, EGH, MP
5. Hon. Sarah Paulata Korere, MP
6. Hon. Beatrice Kahai Adagala, MP
7. Hon. John Machua Waithaka, MP
8. Hon. Yussuf Mohamed Farah, MP

APOLOGIES

1. Hon. Paul Kahinidi Katana, M.P
2. Hon. Marianne Jebet Kitany, MP
3. Hon. Peter Irungu Kihungi, MP
4. Hon. Charo Kazungu Tungule, MP
5. Hon. Babu Owino, MP
6. Hon. Ronald Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant I
2. Ms. Angela Musau - Legal Counsel
3. Ms. Gladwel Amimo - Research Officer III
4. Ms. Merciline Kerubo - Hansard Officer
5. Mr. Amos Tindi - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. John Kangethe - Director Audit
2. Mr. Henry Manegene - Liaison Officer

NATIONAL TREASURY

- Ms. Catherine Nzioki - Senior Investments Officer

INSPECTORATE OF STATE CORPORATIONS

- Mr. Daniel Wambua - Inspector

Management Response

The Accounting Officer submitted that the unreconciled variances of kshs 61,939,332 and Ksh 5,000,000 for BADEA and KFW respectively were as a result of the accounting treatment used. Donor Funds are accounted on cash basis while the KeRRA main accounts are accounted on accrual basis.

Committee observations

The Committee noted that the variances were as a result of reconciliation and presentation of accounting information.

Committee recommendation

The Committee was satisfied with the submission of the Accounting Officer and recommended that the matter is resolved.

2. Road Works Expenditure

2.1. Road Maintenance Levy Fund (RMLF)

The Statement of financial Performance and Note 12 to the financial statements reflects road works expenditure totaling to ksh 40,197,725,000. Included in this expenditure is RMLF 22% constituency Roads Fund of ksh 7,950,824,000 while the trial balance provided for audit review reflected an amount of ksh 7,892,511,000 resulting to a variance of ksh 58,313,000 which was not reconciled.

Further, the Expenditure of ksh 7,950,824,000 under constituency roads fund and ksh 3,994,932,000 on critical link roads against road maintenance levy of ksh 7,510,716,000 and ksh 3,329,411,000 respectively, resulting to over expenditure of ksh 440,108,000 and ksh 665,521,000 was not explained or supported. In addition, the basis for the allocation among the specific funds was not provided.

In the circumstances, the accuracy of the RMLF 22% constituency Roads Fund amount of ksh 7,950,824,000 and road maintenance levy fund expenditure of ksh 870,813,000 could not be confirmed.

Management Response

The Accounting Officer submitted that—

- i) The Variance in expenditure under RMLF 22% roadworks is represented by Road Works Force Account GL 9000100 of ksh 58,312,969.97. The Regional offices execute works under force account which is normally reported as part of 22% Roads Works because the funding source is the 22% RMLF allocations.

2.3 GoK Spot Improvement Funds

Included in the road works expenditure of Kshs.40,197,725,000 is an amount of Kshs.18,072,580,000 incurred under GoK Spot Improvement Funds. However, review of records revealed that Kshs. 17,799,054,000 was received under this item resulting in an under funding of Kshs. 273,526,000. Further, expenditure analysis provided resulted to an amount of Kshs. 18,075,429,682 as analyzed below resulting to a variance of Kshs. 2,849,682 which was not explained or supported

Item	Kshs.
RW GOK_Maintenance_Projects	15,702,892,608
Socio Economic Baseline, Monitoring and Evaluation	(154,700)
Survey and Road Mapping	24,976,221
Environmental Sustainability	(512,950)
Axle Load Monitoring, Traffic Census and Road Safety	15,669,994
Emergency Culverts and Bridges	712,640
ARICS	781,600
Routine & spot improvement	437,381,847
Periodic Maintenance	1,859,650,262
Axle Load	176,400
LVS Management Cost	33,855,759
Sub Total	18,075,429,681

In the circumstances, the accuracy of GOK Spot Improvement Funds expenditure of ksh 18,072,580,000 could not be confirmed.

Management Response.

The Accounting Officer submitted that—

- i) The Authority received kshs 17,799,054,000 for Gok Spot Improvement and spent kshs18,072.580,000 under the same funding. The underfunding of kshs. 273,526,000 was covered by carry over funds from previous financial year periods.
- ii) The various ledgers supporting the reported expenditure of kshs 18,072.580,000 were attached.

Committee observation;

The Committee noted that the submission by the Accounting Officer was satisfactory

Committee recommendation;

The Committee recommends that the matter is resolved.

3. Expenditure of Overheads from Bill One Deductions

Analysis of expenditure shows that a total of Kshs.4,197,279,000 was spent on overheads out of which Kshs.804,082,000 was financed by Kenya Roads Board Overheads allocation and

Committee recommendation

The Committee directed that the Accounting Officer should submit reconciliation report to the Auditor for verification and subsequent transmission to the Committee.

4. Unsupported Security Expenses

The statement of financial performance and Note 16 to the financial statements reflects other operating costs totaling to Kshs.1,174,613,000 . Included in this amount is an expenditure of Kshs.111,091,000 incurred on security of which an amount is Kshs.45,457,960 paid for arbitration proceedings between the Authority and a security firm. No explanation was provided on why the expenditure was not charged under legal fees. Review of records indicated that security services pending bill for security firm amounted to Kshs.27,500,000. The basis for the payment of Kshs.45,457,960 was not provided.

In addition, included in the security expenditure of Kshs.111,091,000 is a payment of Kshs.7,004,804 made to another security firm being claim as a result of reconciliation of previous payments. No analysis indicating previous payments was provided for audit verification as indicated in KeRRA Internal Memo Letter Ref. No: KeRRA/02/3/38/Vol.5(11) dated 16 November, 2021. The full contract agreement was also not provided for audit. Further, the security firm had no security pending bills as per the budget.

In the circumstances, the validity of security payments totaling Kshs. 52,462,764 could not be confirmed.

Management Response.

The Accounting Officer submitted as follows—

Management would like clarify as follows:

- i) The expenditure was not a legal cost but a security cost for services rendered, referred to an arbitrator. The basis of payment of kshs45,457,960 was as a result of the arbitration award. Total Security requested for the Payment to be made directly to their Lawyer Nyaanga and Mughisa Advocates Copy Attached.
- ii) For the payment of kshs 7,004,804 Babs Security - analysis of the reconciliation, a copy of the contract document and an extract of the revised budget 2021-2022 is attached.

Committee observation;

The Committee noted that the Authority submitted a supplementary written submission on this matter as the initial submission was unsatisfactory.

Committee recommendation

The Committee directed the OAG scrutinize the contract for verification and report on the same to the Committee.

interns' payroll for the month of April, 2022 revealed inconsistencies between the interns' payroll and the payroll reconciliation summary as analyzed below: -

	Interns payroll Kshs	Payroll reconciliation summary Kshs	Variance Kshs
NHIF Relief	7,290	7,928	(638)
Personal Relief	136,800	144,000	(7,200)
Salary	1,355,000	1,430,000	(75,000)
Basic Pay Arrears	149,515	344,675	(195,160)
Total Earnings	1,504,515	1,926,602	(422,087)
NHIF	48,600	52,850	(4,250)
NSSF	11,400	12,000	(600)
PAYE	42,941	100,698	(57,757)
Total	3,256,061	4,018,753	(762,692)

In the circumstances, the accuracy and completeness of the salaries and wages of Kshs.1,881,261,000 could not be confirmed.

Management Response

The actual pays slips and amount paid through the bank were correct. There were however system inaccuracies in the reports generated which have since been corrected. A copy of the Intern Payroll summary report has been attached for your review.

Committee observation

The Committee noted that the documentary evidence submitted by the Accounting Officer was satisfactory.

Committee recommendation

The Committee recommended that the matter is resolved.

7. Cash and Cash Equivalents

The statement of financial position and as disclosed in Note 18 to the financial statements reflects cash and cash equivalents balance of Kshs.44,527,506,000. Review of bank reconciliation statements in respect of RMLF Operations Account, Salaries Account and Roadworks account under Headquarters revealed unpresented cheques which had gone stale amounting to Kshs.25,648,898, Kshs.1,308,690 and Kshs.736,145 respectively.

Further, analysis provided under summary of cash and bank balances in KeRRA head office reflects 3 bank accounts with cumulative retention funds of Kshs.2,604,405,029 as at 30 June, 2022. However, note 24 to the financial statements reflects contract retention totaling to Kshs.

Committee observation

The Committee noted that the staff advances had been fully recovered and the documentary evidence submitted by the Accounting Officer was satisfactory.

Committee recommendation

The Committee recommended that the matter is resolved.

9. Failure to Revalue Fully Depreciated Fixed Assets in Use

Fixed assets amounting to Kshs.819,328,471 included in the Authority's asset register were fully depreciated, still in use and had not been revalued as detailed below;

Fixed Asset	Acquisition Cost Kshs.
Building	1,769,314
Plant and Machinery	52,852,955
Motor Vehicles	421,760,160
Office Equipment	20,901,583
Furniture and Fittings	117,850,008
Computers and Software	204,194,451
Total	819,328,471

This is contrary to Paragraph 49 of the International Public Sector Accounting Standard (IPSAS) No.17 on property, plant and equipment, which provides for revaluation of property plant and equipment every three to five years.

In the circumstances, the fair valuation of the fully depreciated property, plant and equipment with a cost of Kshs. 819,328,471 could not be confirmed.

Management Response

The Accounting Officer submitted as follows—

(IPSAS) No.17 on property, plant and equipment, provides for revaluation of property plant and equipment every three to five years. The revaluation process is however a costly affair that require adequate financial planning with the inadequate budgetary allocation

The Authority has undertaken the process of disposal of the assets and will carry out valuation as may be appropriate for the asset category and derecognize fully depreciated assets where applicable.

MINUTES OF THE 42ND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY 30TH OCTOBER,
2024 AT 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00
A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Dr. Lilian Achieng Gogo, MP - Vice Chairperson
3. Hon. Dr. Adan Wehliye Keynan, CBS, MP
4. Hon. Mwangi Kiunjuri, EGH, MP
5. Hon. Sarah Paulata Korere, MP
6. Hon. Beatrice Kahai Adagala, MP
7. Hon. John Machua Waithaka, MP
8. Hon. Yussuf Mohamed Farah, MP

APOLOGIES

1. Hon. Paul Kahinidi Katana, M.P
2. Hon. Marianne Jebet Kitany, MP
3. Hon. Peter Irungu Kihungi, MP
4. Hon. Charo Kazungu Tungule, MP
5. Hon. Babu Owino, MP
6. Hon. Ronald Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant I
2. Ms. Angela Musau - Legal Counsel
3. Ms. Gladwel Amimo - Research Officer III
4. Ms. Merciline Kerubo - Hansard Officer
5. Mr. Amos Tindi - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. John Kangethe - Director Audit
2. Mr. Henry Manegene - Liaison Officer

NATIONAL TREASURY

- Ms. Catherine Nzioki - Senior Investments Officer

INSPECTORATE OF STATE CORPORATIONS

- Mr. Daniel Wambua - Inspector

Management Response

The Road Inventory for the Authority is provided vide gazette supplement no 4 of 22nd January 2016. The Authority has provided the Gazette Notice and a roads inventory for review.

Committee observation

The Committee noted that the documentary evidence submitted by the Accounting Officer was satisfactory.

Committee recommendation

The Committee recommended that the matter is resolved.

11. Unsupported Payables

The statement of financial position reflects payables balance of Kshs.49,006,015,000 as disclosed at Note 24 to the financial statements which includes current payables from exchange transactions balance of Kshs.41,020,863,000 and non-current payables from exchange transactions balance of 7,985,152,000. However, payables schedule was not provided for audit purposes.

Further, the following variances in payables were noted between the financial statements balances and the respective ledgers balance:

Item Details	Financial Statement Balance Kshs	Ledger Balance Kshs	Variance Kshs
Due to Contractors			
Trade Creditors	38,277,691,914	10,306,481,017	27,971,210,897
Equalization Fund HQ	450,487,885	231,249,383	219,238,502
Other Trade Payables-General			
Performance Security Bonds	2,028,000	1,250,000	778,000
Trade creditors	2,036,897,598	928,466,654	1,108,430,944
CRC Payables	8,649,245	8,431,314	217,931
Other payables			
PAYE	676,867	2,391	674,476
NHIF	844,660	19,700	824,960
NSSF	792,964	56,644	736,320
Payroll control	5,936,955	637,341	5,299,614
Withholding tax (VAT)	17,530,669	1,458,142	16,072,527
Withholding income tax	17,851,288	48,183	17,803,105
Other deductions	5,165,948	2,183,764	2,982,184
Staff insurance	63,385,000	35,730,000	27,655,000
Staff creditors	131,000	3,099,023	-2,968,023

Committee observations;

- I. The Committee was informed that delayed disbursement of the budget allocations attributed to its under expenditure and over expenditure
- II. Further, the Committee noted that the documentary evidence submitted by the Accounting Officer was satisfactory.

Committee recommendation

The Committee recommended that the matter is resolved

13. Failure to Adhere to a Third Gender Rule

An analysis of the staff bio data provided for audit revealed that out of seven hundred and forty-eight (748) staff, there were five hundred and twenty-five (525) male and two hundred and twenty-three (223) female. The number of women were therefore below a third of the total number of staff contrary to the requirements of Article 27 (8) of the Constitution which stipulates that not more than two thirds of the members shall be of the same gender. Management was in breach of the law.

Management Response

The failure to Adhere to a Third Gender Rule is a legacy issue and the Authority continues to work towards compliance of the 1/3 gender rule in its operations, appointments and training.

Committee observations

- I. The Committee was informed that the management of KeRRA was working towards complying with the Third Gender Rule.
- II. The Committee also noted the need for the Authority to continue ensuring both gender and regional balance pursuant to Article 27(8) of the Constitution of Kenya, 2010.
- III. Further, the Committee noted that the documentary evidence submitted by the Accounting Officer was satisfactory.

Committee recommendation

The Committee recommended that the matter is resolved.

14. Violation of a Third Rule of Basic Pay

An analysis of the payroll for the month of April, 2022 revealed that 45 employees had net salary way below a third of their basic pay which is contrary to the Authority's Human Resource Policy and Procedures Manual. This exposes staff to pecuniary embarrassment.

Management did not comply to the entity's Human Resource Policy and Procedures manual.

15.2 Ting'a – Igena – Itambe Road (Nyamira County)

Records provided for the above project revealed that the road was financed through the GoK Road Maintenance Fund and was in the work plan for financial year 2021/2022 at a budgeted of Kshs.17,500,000.

The tender was advertised through the standard newspaper on 25 January, 2022 and in the Authority's website, under preference and reservation for women. Minutes of tender opening meeting dated 23 February, 2022 shows that twenty-three (23) bidders responded. According to tender evaluation minutes dated 22 April, 2022 an engineering company was found to be the lowest evaluated responsive bidder and professional opinion issued on 22 April, 2022 recommending approval of the recommendation of the evaluation report. On 27 May, 2022, notification of intention to enter into a contract was issued vide letter referenced KeRRA/08/8C/Vol.XV11(890).

The contract was awarded to the Company on 22 June, 2022 thereafter accepted on 27 June, 2022 and the contract signed on 28 July, 2022. On 2 August, 2022 commencement letter was issued by the Authority and site possession order given on 3 August, 2022. The contract was to take a period of six (6) months with a defect liability of three (3) months.

According to progress report dated 11 October, 2022, the project was 100% complete and payment made on 7 December, 2022 through I Banking vide payment voucher number PV:40+49 of gross amount Kshs. 14,202,436. The contractor is yet to be paid retention amount of Kshs.727,876.

Further, Management did not provide the Inspection and Acceptance Committee report an indication that the works were not inspected and accepted before payment was effected. It was also noted that handing over of the road to Authority had not been done and the completion certificate had not been issued as at the time of the audit in February, 2023.

Physical Verification

Verifiable Roadworks done revealed:

Details	Audit Verification
Road length	7.3Km
Tarmac section in the market	0.4Km
Road works done	6.9Km
Road width	7meters
signage	Not done
Culvert Installation 900mm	8 Cross Culvert

16. Lack of an Annual Training Plan

Included in the employment costs amount of Kshs.2,821,451,000 is an amount of Kshs.183,945,000 incurred under training and development in the year under review. It was noted that during the year under review, employees were sponsored for various training by the Authority. However, the Authority did provide an approved annual training plan to justify the expenditure.

Management Response.

The Authority carried out Skills Gap Training and Needs analysis which it draws heavily on its training directions in terms of enhancing and equipping the staff. The Authority will endeavor to ensure that the training plan is prepared on time. With the ERP through the employee self-service portal the staff are able to share their training requests on time and enable the committee deliberate and onward submissions to the Director General for approval.

Committee observations;

The Committee noted that the documentary evidence submitted by the Accounting Officer was satisfactory.

Committee recommendation

The Committee recommended that the matter is resolved.

17. Lack of an Updated Fixed Asset Register

Management did not maintain an Updated fixed asset register as at 30 June, 2022, as required by Section 143 (1) of the Public Finance Management Act (National Government) which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession.

In the circumstances, Authority's assets may not be fully accounted for and maybe at risk of loss.

Management Response.

The Authority Asset register captures of all basic information regarding a particular asset a per asset category. The Authority continues to implement its ERP system and the Asset Module has been upgraded to comply with statutory requirements.

Committee observations

The Committee noted that the submission by the Accounting Officer was unsatisfactory with an incomplete register.

Committee recommendations

- I. The Committee directed the Authority to prepare the relevant fixed asset register as per the reporting standards required and under the guidance of the Auditor General. The Accounting Officer to submit on the same to the Committee.

**MINUTES OF THE 43RD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY 28TH NOVEMBER,
2024 AT 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00
A.M.**

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Sarah Paulata Korere, MP
3. Hon. Babu Owino, MP
4. Hon. Beatrice Kahai Adagala, MP
5. Hon. John Machua Waithaka, MP
6. Hon. Marianne Jebet Kitany, MP
7. Hon. Yusuf Mohamed Farah, MP

APOLOGIES

1. Hon. Dr. Lilian Achieng Gogo, MP - Vice Chairperson
2. Hon. Dr. Adan Wehliye Keynan, CBS, MP
3. Hon. Mwangi Kiunjuri, EGH, MP
4. Hon. Paul Kahinidi Katana, M.P
5. Hon. Peter Irungu Kihungi, MP
6. Hon. Charo Kazungu Tungule, MP
7. Hon. Ronald Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Wanjiru Mwaura - Principal Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant I
3. Mr. Andrew Kipchumba - Clerk Assistant III
4. Ms. Angela Musau - Legal Counsel II
5. Ms. Deborah Mupusi - Media Relations Officer
6. Ms. Mercyln Kerubo - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. Leonard Milgo - Director Audit
2. Mr. James Njeru - Director Audit
3. Mr. Joshua Omutuku - Director Audit

KENYA URBAN ROADS AUTHORITY

1. Eng. Silas Kinoti - Director General
2. Mr. Reuben Mayienda - Officer

MIN.NO.NA/PIC-CA&E/2024/224:

**EXAMINATION OF THE REPORTS OF THE
AUDITOR GENERAL ON THE FINANCIAL
STATEMENTS OF THE KENYA URBAN
ROADS AUTHORITY FOR THE FINANCIAL
YEAR 2021/2022**

F/Y 2021/2022 (Continuation)

1. Construction of Kisii Bypass Phase 2 - Kisii County

The main project works comprised of construction of 15.58 km long single carriageway in Kisii town. Review of the monthly progress report dated 17 January, 2023, revealed that the value of works certified by December, 2022 was Kshs.81,126,253 and that the assessed completed works were estimated at 9.24% against an elapsed time of 60%. During the audit inspection carried out on 2 March, 2023, the contractor was not on site and the works had been suspended.

Management Response

The slow progress reported was occasioned by slow mobilization by the Contractor due to financial challenges. To forestall the delay the project was assigned to another contractor and the assignee mobilised and started works. Currently the physical progress stands at 28%. There is currently Kshs. 44,000,000 for certified Works yet to be paid. The project have stalled due to delayed payment.

Committee Observation

The Committee noted the project was behind schedule and currently the project had stalled.

Committee Recommendation

The matter remains unresolved, and the Committee proposed to visit the project site to asses its progress.

2. Delayed Completion of Nyeri Town Roads

The contract for the road works was awarded to a local company in respect of upgrading to bitumen standards of Nyeri roads at a contract sum of Kshs.396,797,262 and the commencement date of 28 October, 2020 with expected completion date of 28 April, 2023. The road network under construction is a system of inter-linked roads, divided into three sections with total length of 5.4km. Audit inspection exercise carried out in February, 2023, revealed that the contractor was on site and works were going on. However, the project progress report as at January 2023 indicated that the project time elapsed was 90% against assessed work done of 40.9%.

In the circumstances, it is unlikely that the project will be delivered within the expected completion date of 28 April, 2023 and the public may not get value for money on the project.

Management Response

Progress has been hampered by the delay in settling of pending bills and exchequer release. The project completion date has been extended to April 2025. (Annex 7.10 – Progress Report)

As previously reported and also observed during the audit inspection exercise carried out on 28 February, 2023, one assigned contractor had completed their part of contract of upgrading 1.5 km road and vacated the site.

The second assigned contractor was on site. A section of 1.5 km was substantially done with outstanding works being road marking and drainage works. However, a section of 0.75 km had not been done with material for sub base on site but not spread.

The third assigned contractor was not on site and therefore no work was going on for the 0.7 km section of police station road and 0.8 km water intake roads as per the contract. Overall, the percentage of time elapsed was 100% against work done of 80% and therefore the two assignees may not meet their contractual obligation.

In the circumstances, the project is behind schedule and the public may not get value for money on the project.

Management Response

The first assignee completed the assigned 1.5Km within the allocated time and the section was taken over. (Annex 7.12a – Taking-over Certificate)

The second assignee completed the assigned 6.75Km within the allocated time. (Annex 7.12b – Taking-over Certificate)

However, the third assignee for 6.75Km completed 3Km and was unable to proceed due to delayed payment and changes in prices of construction materials. The contractor notified the Authority that due to upwards movement of prices, he could continue with the Works and requested for termination of the contract which was completed. (Annex 7.12c – Termination of Contract)

The remaining Works will be packaged and procured afresh. (Annex 7.5b – Evidence of Planning)

Committee Observation

The Committee noted the query as partially resolved as not all the work had been completed. Currently no work were ongoing and the Agency was in the process of procuring for the remaining works.

Committee Recommendation

The matter remains partially resolved.

5. Construction of Access Roads to Maai Mahiu and Suswa SGR Stations

The contract was awarded to a local company at a contract sum Kshs.1,199,903,846 and with expected completion date of 2 June, 2024. The project is funded by GOK (Kenya Railways) and commenced on 2 December, 2021. The contractor has been paid advance payment of Kshs.119,990,385 and the amount certified as per IPC 1 was Kshs.62,281,558.

The scope of works involves construction of 12km access road to Maai Mahiu SGR station and adjacent access roads and 3km access road to Suswa SGR station and adjacent access roads. The project components included 9.0m wide carriageway inclusive of a 2.0M cycle track and 2.0M walkway, storage lanes and bus bays, in-situ concrete and masonry lined u drains on both sides

The scope of the contract included rehabilitation and upgrading of single carriageway of Shreeji road (1.1 K.m) to two lanes two-way 7m, construction of walkways and drains, expansion of existing bridge over rail on Likoni road and river bridge on Enterprise road, concrete drains on both sides, pipe culverts and other drainage works and road furniture. Audit inspection carried out in February, 2023 revealed the following anomalies;

- (i). Likoni road bridge was incomplete despite time lapse.
- (ii). Enterprise road bridge was incomplete. The contractor had not submitted design drawings for the proposed bridge structure.
- (iii). A section of Shreeji road was incomplete. The contractor was doing earthworks as at the time of the audit.

In the circumstances, it is unlikely that the project will be completed by the revised completion date of 8 April, 2023, thus impacting adversely on realization of value for money.

Management Response

i. Likoni road bridge section is pending.

Kenya Railways Corporation (KRC) insisted on a minimum clearance of 7.01m instead of the initially designed 5.6m

(Same clearance as the existing Bridge). Engagements are on-going with KRC to agree on the best way forward on this bridge. (Annex 7.14a – Evidence of Engagement with KRC)

ii. Enterprise Road Bridge

The bridge designs have been approved, the works are ongoing as shown in the progress report photographs. (Annex 7.14b – Submission and Approval of Bridge Designs)

iii. Shreeji Road

Due to heavy traffic using the road and lack of an alternative road/diversion, the physical progress have been impacted negatively since the road under this section is a rigid pavement. However, the construction is ongoing at 63%. (Annex 7.14c – Progress Report)

Committee Observation

- I. The Committee observed the works had not been completed and the contractor had applied for the contract to be terminated.
- II. The Committee noted, Likoni road bridge was not yet done, the Enterprise Road Bridge only piling works done and the 1.1km Shreeji Road 800m has been completed and 300m remains incomplete.

Committee Recommendation

- I. The Committee directed as follows;
 - (i.) The OAG to study the contract and submit the estimate cost of pending works.
 - (ii.) The management of KURA to submit the CR12 of Cementers Construction Company.
 - (iii.) The Committee secretariat to make a summary of the scope of works of the contract.

MINUTES OF THE 47TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY, 29TH AUGUST 2023
IN BAOBAB CONFERENCE HALL, SERENA BEACH HOTEL, MOMBASA COUNTY,
AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Dr. Adan Wehliye Keynan, CBS, MP
3. Hon. Mwangi Kiunjuri, EGH, MP
4. Hon. Babu Owino Paul Ongili, MP
5. Hon. Paul Kahindi Katana, MP
6. Hon. John Machua Waithaka, MP
7. Hon. Marianne Jebet Kitany, MP
8. Hon. Peter Irungu Kihungi, MP
9. Hon. Ronald Kamwiko Karauri, MP

APOLOGIES

1. Hon. Dr. Lilian Achieng Gogo, MP - Vice Chairperson
2. Hon. James Opiyo Wandayi, MGH, MP
3. Hon. Sarah Paulata Korere, MP
4. Hon. Beatrice Kahai Adagala, MP
5. Hon. Charo Kazungu Tungule, MP
6. Hon. Yussuf Mohamed Farah, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant II
2. Mr. Letaya Morintat - Clerk Assistant III
3. Mr. Andrew Kipchumba - Clerk Assistant III
4. Ms. Sheila Chebotibin - Serjeant at Arms
5. Ms. Angela Musau - Legal Counsel II
6. Ms. Gladwell Amimo - Research Officer III
7. Ms. Judy Kiprop - Fiscal Analyst
8. Mr. Amos Tindi - Hansard officer III
9. Ms. Mercy Kerubo - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. Paul K. Nzioka - Deputy Director Audit
2. Mr. F. T Kimani - Deputy Director Audit
3. Mr. Henry Manegene - Parliamentary Liaison Officer

1.0. Operating Revenue

1.1. Under-Charging of Revenue from Storage of Containers

The balance of Kshs.48,161,579,000 includes revenue arising from storage of empty containers of Kshs 561,383,000 and storage of full containers of Kshs 5,612,671,000, all totaling to Kshs 6,174,054,000. This amount is net of waiver on storage of Kshs 242,268,925.

Examination of documents indicated that the waivers were granted on condition that the cargo would be cleared within seven (7) days after the waiver was granted, failure to which the storage fees would be secured in full. However, the cargo that had not been cleared within the seven days had accumulated storage fees of Kshs 242,268,925 which were not secured by the Management.

Further, storage waiver amounting to Kshs 24,885,400 was granted to customers on grounds of financial challenges. Management has not provided supporting documents or explanations on how the amount was computed.

Consequently, the accuracy and completeness of storage revenue of Kshs 6,174,054,000 and validity of waiver on storage of Kshs 242,268,295 for the year ended 30 June 2020 could not be confirmed.

Management Response

The waivers highlighted were revalidated and cargo evacuated from port. Revalidation is a process of renewing a waiver letter that has expired. The procedure involves a customer making the request for validation in writing and was documented in a Customer Notice highlighting guidelines on waiver handling procedure. Validation is usually done under very stringent conditions to facilitate clients to evacuate their cargo and free up yard space for operational activities.

Waiver of storage charges granted to clients covers storage charges for the consignment until the date of evacuation. When waiver is granted, the percentage given will apply to the storage charges up to the date of evacuation of cargo. The storage charges keep on increasing and the balance payable is therefore higher when customers delay to evacuate their cargo. The absence of validation may make it hard for clients to evacuate their cargo, and therefore work against the Authority's goal of facilitating trade. Appropriate steps were taken to provide for validation in the current Waiver Policy 2021 during the review process.

Waivers granted to customers on grounds of financial challenges is based on the duration the cargo has been lying in the port supported with the number of times the customer appeals. Customers from transit countries are considered on special circumstances as guided by clause 4.14 of waiver policy. Attached herein is a request from Uganda, where due diligence was done by our Kampala Liaison Office as evidenced by thread of emails. Based on the findings the client was awarded 50% waiver on commercial basis.

Committee Observations;

The Committee made the following observations;

- i. Despite the OAG confirming concurrence with the agency, Members noted that the Auditor needed to avail the evidence to the Committee.
- ii. Members sought to know the basis for the collection of the revenue from Africa Gas and Oil Company Limited.
- iii. The Committee also observed that if the matter was resolved in the 12th parliament there would be no reason as to why the OAG raised the matter again in the 2019/2020 financial year.
- iv. The Committee also sought to be informed on the directorship of the Africa Gas and Oil Company Limited.
- v. Members directed KPA to table evidence of the calculation of the revenue collected by the Company.
- vi. The Committee also resolved that KPA should provide the names of the directors of Africa Gas and Oil Company Limited.
- vii. The Committee directed KPA to submit the agreement between it and the Africa Gas and Oil Company Limited.

MIN.NO.NA/PIC-CA&E/2023/0247: ADJOURNMENT

The meeting was adjourned at 1:30 p.m. to resume at 2:30 p.m.

Signature 

**HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)**

Date..... 28/9/2023

MINUTES OF THE 48TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY, 29TH AUGUST 2023
IN BAOBAB CONFERENCE HALL, SERENA BEACH HOTEL, MOMBASA COUNTY,
AT 2.30 P.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - Chairperson
2. Hon. Dr. Adan Wehliye Keynan, CBS, MP
3. Hon. Mwangi Kiunjuri, EGH, MP
4. Hon. Babu Owino Paul Ongili, MP
5. Hon. Paul Kahindi Katana, MP
6. Hon. John Machua Waithaka, MP
7. Hon. Marianne Jebet Kitany, MP
8. Hon. Peter Irungu Kihungi, MP
9. Hon. Ronald Kamwiko Karauri, MP

APOLOGIES

1. Hon. Dr. Lilian Achieng Gogo, MP - Vice Chairperson
2. Hon. James Opiyo Wandayi, MGH, MP
3. Hon. Sarah Paulata Korere, MP
4. Hon. Beatrice Kahai Adagala, MP
5. Hon. Charo Kazungu Tungule, MP
6. Hon. Yusuf Mohamed Farah, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Ahmad Guliye - Clerk Assistant II
2. Mr. Letaya Morintat - Clerk Assistant III
3. Mr. Andrew Kipchumba - Clerk Assistant III
4. Ms. Sheila Chebotibin - Serjeant at Arms
5. Ms. Angela Musau - Legal Counsel
6. Ms. Gladwell Amimo - Research Officer III
7. Ms. Judy Kiprop - Fiscal Analyst
8. Mr. Amos Tindi - Hansard officer III
9. Ms. Mercy Kerubo - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. Paul K. Nzioka - Deputy Director Audit
2. F. T Kimani - Deputy Director Audit
3. Mr. Henry Manegene - Parliamentary Liaison

MIN.NO.NA/PIC-CA&E/2023/0251: EXAMINATION OF THE AUDITED
ACCOUNTS OF KENYA PORTS
AUTHORITY FOR THE FY 2019/2020 TO
2020/2021

The Committee resumed examining of the audited accounts of Kenya Ports Authority for the FY 2019/2020 to 2020/2021.

1.0. Operating Revenue

1.1 Loss of Revenue on Waivers

The balance includes an amount of Kshs.4,519,604,000 in respect of revenue from storage of full containers. The amount is net off waiver of Kshs.1,914,950 granted by Management after approval by the Corporate Waiver Committee and Inland Container Depot's (ICD's) Waiver Committee on storage revenue chargeable on dangerous cargo. However, this is contrary to Paragraph 5.0(d) of the Waiver Policy, 2018 which states that, 'Waiver shall not be granted on dangerous cargo rent.'

Further, information provided indicated that the Authority has not set aside and designated with the necessary infrastructure to respond to any peril and suitable place for storage of dangerous cargo to ensure that employees and the Authority's assets are not exposed to risks posed by dangerous cargo.

Management Response.

The Authority reported that, Storage of dangerous cargo in the port is highly discouraged because of the potential safety and health risks that such cargo can pose to the environment. However, for a variety of reasons such cargo may still end up uncollected on time thereby accrue storage charges.

Waiver of storage of dangerous cargo is disallowed in the policy to deter cargo owners from using the port as a storage facility. Notwithstanding the above, management granted waivers of storage charges to dangerous cargo cited in the report due to a mix of factors, some of which are outlined below:

- i. Most cases granted 100% waiver were as a result of erroneous railing to Inland Container Depot Nairobi and thereafter cargo railed back to Mombasa
- ii. Other cases granted 100% Storage that accrued at Mombasa port due to delay in railing ICD - bound cargo by Kenya Railways (the KPA & Kenya Railways (KR) were liable for the resultant storage charges.

KPA informed the committee that it has rules on handling dangerous cargo. At the Container Terminal, all class 1 and class 5.1 UNNO 1942 (explosives) are not discharged from vessels before inspection. The cargo is thereafter directly delivered and not stacked in the yards. However, in cases where dangerous cargo (other than class 1 and class 5.1) has to be staked in port areas, the Authority has designated segregation sites for dangerous cargo stacking.

hours worked and limited to only five entries in a month cycle. However, staff release is a management function granted to employees either attending courses outside the port facility or other authorized activities. Communication to ICT on configuration of Attendance 'Authority to Work' was availed in our PIC submission for FY2018-2019

On the issue of absenteeism and payment of full remuneration, management has with effect from the month of March 2021 effected system locks where salary stoppage is carried out for three days continuous absence from duty. This has completely addressed the challenge.

Management notes the observations made on variation of employment terms for five (5) management staff recruited in the financial year 2019/2020 and will ensure that future employment adheres to the grading structure and the minimum entry points set out in the terms of employment.

2.2. Overtime Allowances

Note 9 further discloses payment of overtime allowances amounting to Kshs 2,441,884,000, which includes an amount of Kshs 879,764,063 in respect of overtime allowances approved and paid in excess of the 30% and 20% for operations and administrative employees respectively. This was done contrary to Paragraph C.9(h) of the Kenya Ports Authority Human Resource Manual, 2017 which requires overtime hours payable at the applicable rates to be limited to a maximum of thirty per cent (30%) enhanced time of the normal monthly working hours for operational employees and twenty per cent (20%) for administrative and non-operational employees.

Further, included in the overtime allowances of Kshs 2,441,884,000 is Kshs 384,567,260, relating to third-shift allowances. However, review of payroll records indicated that the third-shift allowances paid were calculated at a rate of three percent (3%) of basic pay for every day worked resulting to a payment of Kshs 54,643,899. This is contrary to the Collective Bargaining Agreement of 2018/2019 Paragraph 14(e) which states that, 'third shift is regarded as a normal shift like the first and second shifts but due to the odd hours worked, the compensation is 15% of the basic monthly salary'.

Consequently, the propriety and validity of third shift allowances of Kshs 54,643,899 for the year ended 30 June 2020 could not be confirmed.

Management Response;

The Authority informed members that, they concur with the auditor's observation. However, it is important to point out that there are occasions when Port operations and security areas demand that the provided limits be exceeded. User Departments have however been advised to adhere to the set overtime control measures by strictly applying the 30% and 20% overtime ceilings for Operational and Administrative areas respectively.

The port being a 24/7 working area requires that all operational and security areas are catered for except on labour and Christmas days. Based on the current 7/2 working arrangements which

The authority agreed with the audit observation and clarified that; due to exigency of services it became necessary that staff on training grades be allowed to work overtime. In recognition of this, approval for payment of overtime for the staff on training grades was sought and granted.

We further wish to confirm that, in compliance with the provisions of the HR manual, the confirmation of the trainees is being worked on in a case-by case basis.

2.4. Payments Made for Work Allocated After End of Employee Shift

Time management records provided for audit review indicated that various employees were assigned their respective work shifts. However, audit review of the work allocation schedules and payroll records revealed that various employees were assigned to work for extra hours after their shifts for which they were paid Kshs 1,682,646,318. Further, 1,337 employees who worked for eight hours in a day were paid overtime allowance amounting to Kshs 214,652,054, contrary to the policy.

Consequently, the propriety and validity the establishment expenses of Kshs 1,897,298,372 could not be confirmed.

Management Response;

The Authority informed the Committee that the management undertook to introduce system controls to ensure work allocation payments were done within the correct time frame. However, due to exigency of duty, employees may be required to extend the hours worked (not a whole shift) for an assignment.

2.5. Irregular Payment of Berth Productivity Incentive

The balance of staff allowances of Kshs 2,228,097,000, out of which Kshs 872,182,131 was paid as monthly berth productivity incentive to 3,669 employees. Records provided for audit indicated that the Management approved payment of berth productivity allowance only when there is performance over and above the set targets, subject to amendments by the Board's Human Resources Committee. However, it was observed that payments were based on all units achieved including normal target.

Consequently, the propriety, validity and lawfulness of staff allowances of Kshs.19,520,491,000 could not be confirmed.

Management Response;

The authority acknowledged the observation of the OAG regarding payment of Berth Productivity Incentive and reported that action was taken to correct the matters raised. The Human Resource communicated to the relevant departments to ensure incentive payments were paid based on surpassed targets and at present incentive were only paid when there was performance over and above the set performance targets.